Public Utilities

Volume XLIV No. 10 November 10, 1949

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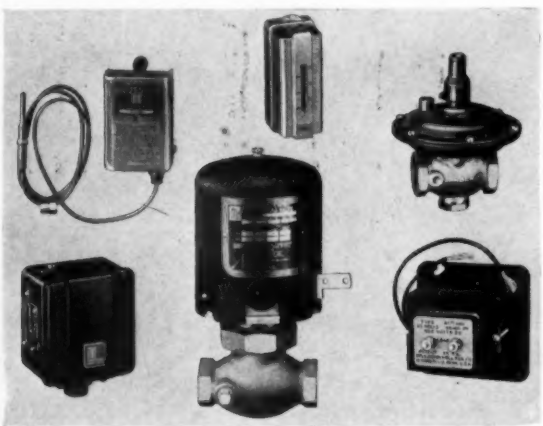

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Public Utilities FORTNIGHTLY

VOLUME XLIV NOVEMBER 10, 1949 NUMBER 10

ARTICLES

FEATURE SECTIONS

PUBLIC UTILITIES FORTNIGHTLY . . stands for Federal and state regulation of both privately owned and operated utilities and publicly owned and operated utilities, on a fair and nondiscriminatory basis; for nondiscriminatory administration of laws; for equitable and nondiscriminatory taxation; and, in general—for the perpetuation of the free enterprise system. It is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.

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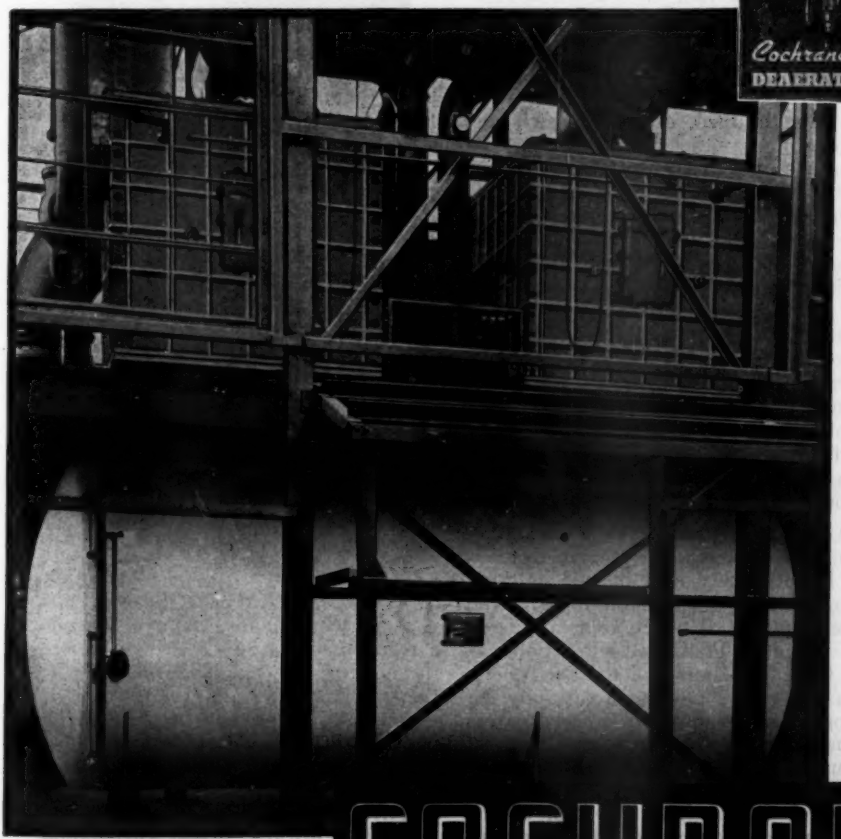

DEAERATORS
HOT PROCESS SOFTENERS
ZEOLITE SOFTENERS • FILTERS
CONTINUOUS BLOWOFF SYSTEMS

COCHRANE

Pages with the Editors

ON Labor Day, 1949, at the Kiel auditorium at St. Louis, the members of the American Bar Association, convened in national assembly, had the pleasure of listening to an address by General Dwight D. Eisenhower. It was a statement of his faith in the United States and in the American form of private enterprise. He recalled that the fundamental principles of American life have enabled us to win, in less than two centuries, more tangible benefits for the community of men than was won in the previous forty centuries.

AT the same time, he warned against the danger and abuse of centralized government and subsidies, which could carry us along the primrose path of statism. General Eisenhower said on this point:

> WE, in turn, carefully watch the government—especially the ever-expanding Federal government—to see that in performing the funtcions obviously falling within governmental responsibility, it does not interfere more than is necessary in our daily lives. We instinctively have greater faith in the counterbalancing effect of many social, philosophic, and economic forces than we do in arbitrary law. We will not accord to the central government unlimited authority, any more than we will bow our necks to the dictates of the uninhibited seekers after personal power in finance, labor, or any other field.

IT was at this same convention on this same day, September 5th, that the Section of Public Utility Law opened its three sessions of specialized meetings in the same building at which General Eisenhower spoke. Translated into action was the General's admonition that the American lawyers should watch carefully the dangers and temptations towards overcentralization of government. The program of the Section on Public Utility Law featured speaker after speaker who touched on this vital question of the principal relationship of Federal government, state government, municipal government, and industrial management.

FREDERICK A. WISEMAN

WE are glad to present, as the first part of a 2-part special appendix, the full text of the speeches delivered at these sessions of the public utility law section. Although somewhat numerically small in attendance, this group of specialized attorneys, who represent utilities and public agencies, featured a penetrating program which went to the heart of several serious public utility problems. We feel that our readers will welcome this opportunity of reading, at firsthand, what these learned members of the bar had to say to each other when they got together in St. Louis on the subject of public utility regulation.

* * * *

DURING World War II, the term "task force" came into common usage as a result of dispatches from the various theaters of war activity. We came to think and speak of a task force as a group specially organized for a specific objective according to a particular plan and timetable for action.

THIS is just about what has to be done when the world's largest corporation, American Telephone and Telegraph

Company, decides to raise an unprecedented amount of corporate financing, as it has recently done in the $400,000,000 offering so successfully handled last spring out of the Bell system headquarters at 195 Broadway, New York city.

IT required a special force of trained employees. It required a special plan of action to keep the timetable on schedule. It required a detailed anticipation of administrative problems so varied and extensive that we thought our readers would welcome an authoritative account of how such a transaction was organized.

THIS giant financial operation is vividly described by FREDERICK A. WISEMAN in the opening article in this issue, "Raising $400,000,000 Requires Organization." MR. WISEMAN, who is assistant treasurer of the American Telephone and Telegraph Company, has to know all about these matters because he is the parent company's security issue manager. In the forty years since he joined the New York and New Jersey Telephone Company, he has devoted himself to accounting, statistical, and methods work. He became an AT&T assistant treasurer in 1930, and since 1942 he has been head of the financial division of the treasury department. He also is assistant treasurer of the Theodore N. Vail Memorial Funds and treasurer of the 195 Broadway Corporation and the Telephone Pioneers of America.

S. W. RUBENSTEIN

IN this issue we introduce a series of articles by J. LOUIS DONNELLY, whose name will be familiar to many of our subscribers who also read his financial by-line in the New York *Journal of Commerce*. MR. DONNELLY, a graduate of Middlebury College in Vermont, has specialized in financial and utility matters since he first went to work on Wall Street with the *New York Evening Telegram* and later the old *Wall Street News*.

THE idea for MR. DONNELLY'S series, "What's in a Name?" came as a result of a series of inquiries received in our editorial office from time to time asking about the origin of various utility plant names. We assigned MR. DONNELLY to collect such data for an article. The project grew faster than Topsy. As a result, we now have a comprehensive series of four instalments—the first of which begins in this issue.

* * * *

S. W. RUBENSTEIN, whose article "Top Management Tips from Employees" begins on page 629, is the director of the employees' activities division of the Philadelphia Electric Company. His responsibilities include administering the company's suggestion system; managing an employees' country club and also a convalescent home; and directing a widely diversified social and recreational program.

BUT for nearly a quarter of a century, MR. RUBENSTEIN'S most continuous function has been his association with the company's suggestion program. It is something in which he has pioneered and helped to expand into a virtual national movement. This is witnessed by the fact that he, for some years, has been a director of the National Association of Suggestion Systems. He is currently the secretary of that group, and has written numerous articles on administration of suggestion systems.

THE next number of this magazine will be out November 24th.

The Editors

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WHAT'S IN A NAME? PART II.

Ever since the public service industry became established, various public utility companies have followed their own traditions for the naming of plant buildings and other great structural works. Sometimes they have been named after leading executives, sometimes after local personages whose activities made such buildings and construction possible. Sometimes promotional pioneers were honored. This 4-part article is the result of a personal survey by the author, J. Louis Donnelly, into the origin of the names of public utility buildings and structures.

REGULATION OF AIR TRANSPORTATION UNDER CIVIL AERONAUTICS ACT

Oswald Ryan, vice chairman of the Civil Aeronautics Board, in this article gives us an analysis of the similarities and dissimilarities of air carrier regulation as compared with regulation of older forms of utility service.

PREDICAMENT OF THE SMALL TELEPHONE COMPANY

Now that Congress has passed a law authorizing low-interest, long-term Federal loans for small telephone companies, the economic needs of these companies become a matter of national as well as local interest. Frank E. Southard, chairman of the Maine Public Utilities Commission, has written a down-to-earth analysis of typical small-company situations in the state of Maine.

SPECIAL APPENDIX, PUBLIC UTILITIES SECTION, AMERICAN BAR ASSOCIATION

Here is published in full text, Part II of an important series of addresses on questions of public interest delivered at the annual meeting of the Section of Public Utility Law of the American Bar Association, held in St. Louis, Missouri, September 5, 6, 1949.

★

Also . . . ***Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.***

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

JOHN FOSTER DULLES
U. S. Senator from New York.

"Where you don't have an educated and religious people, democracy means rule by an uneducated mob."

BEN MOREELL
President, Jones & Laughlin Steel Corporation.

"Money spent to improve the production and distribution equipment of a company is for the benefit of all."

MERRYLE S. RUKEYSER
Columnist, The Times-Herald (Washington, D. C.).

"Words are weapons, and much of the economic deterioration around the world is ascribable to the pursuit of goofy ideas."

PAUL H. DOUGLAS
U. S. Senator from Illinois.

"If the public has to choose between a private and governmental monopoly, it will choose governmental monopoly in the belief it will be more responsive to public desires."

EDITORIAL STATEMENT
Chicago Journal of Commerce.

"Most of the statements that have accompanied Department of Justice antitrust action in recent years read as though they had been written by Daniel Webster arguing with himself."

MORRIS SAYRE
Chairman of the board, National Association of Manufacturers.

"What is spent to expand governmental machinery taxes away the incentive to expand and even to replace the productive machines and other equipment which enable the American people to earn and buy more for their money. One basic problem is to get the bureaucratic mind to realize that capital is a universal human requirement."

DONALD D. CONN
Executive vice president, Transportation Association of America.

"If a bill to nationalize all transportation were introduced in Congress, it would be dealt with, in summary fashion, by unanimous opposition of all enterprise. Just as grave in its implications is the assault of the antitrust division of the Department of Justice against the railroads for recovery of 2.5 billions in alleged overcharges on wartime shipments."

R. E. WOODRUFF
President, Erie Railroad.

"Nationalization of railroads through economic or political causes will spell the end of industrial and civic progress in the United States. While public opinion seems to be against nationalization of any industry, there is always a threat that it will come upon us, as it did in England, whether we want it or not, either through our own complacency or failure to recognize the danger signals."

EDITORIAL STATEMENT
The Wall Street Journal.

"Businesses and individuals are now in a strong financial position because in boom times they exercised caution. It is government which has proceeded on the theory that the 'sky is the limit.'"

IRWIN D. WOLF
Vice president, Kaufmann Department Stores.

"If American business is to succeed in discharging the task to which it has been assigned by our statesmen, the dead hand of bureaucracy must be lifted from the shoulders of legitimate business enterprise."

JOHN W. MCCORMACK
U. S. Representative from Massachusetts.

"I am friendly to the Army Engineers, but all I can say is that some of their friends are doing them irreparable harm. They are putting the Army Engineers in a position of being more powerful than Congress, more powerful than the President, more powerful than everybody, including government itself."

EDITORIAL STATEMENT
The New York Times.

"Monopoly is bad enough when it is confined to an industry or a labor union. When the two join forces against the public, a situation is created which leads sooner or later, as we have seen in the case of Britain, to the one thing that can conceivably be regarded as worse; namely, nationalization of the industry."

HUBERT H. HUMPHREY
U. S. Senator from Minnesota.

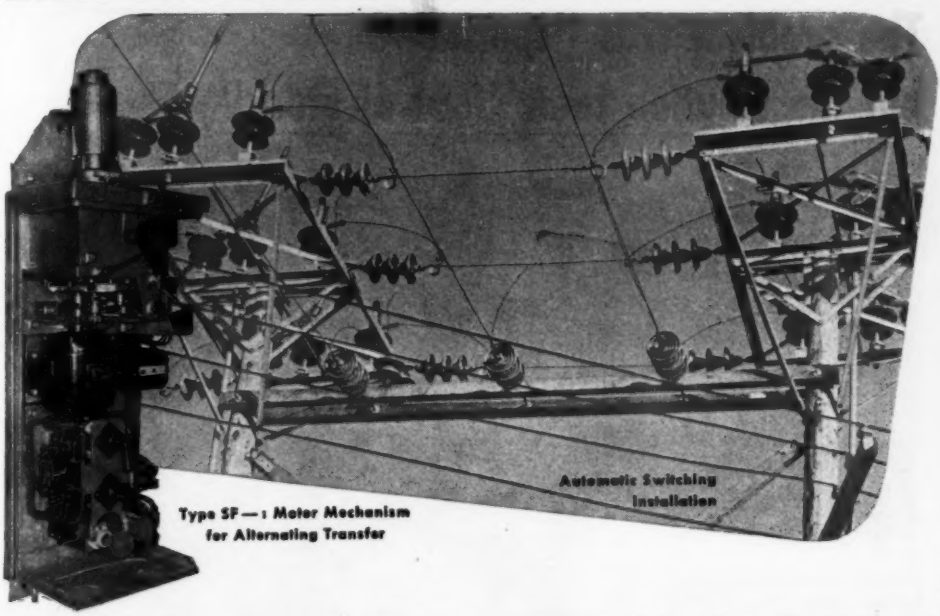
"We must strive to a greater economic democracy, a democracy that includes a decent floor under wages, a guaranty of prosperity, and an incentive for productive agriculture. We must interpret our economic democracy as including a progressive national policy that will encourage the growth of a free labor movement and at the same time assure maturity in the responsibilities of both labor and management."

DAVID MCCORD WRIGHT
Professor, University of Virginia.

"Our society is so organized that, if it tries to stand still, it immediately runs backward. It is growth we need for full employment. First of all—and always—we should remember that our problem is one of food and clothes and not just one of money. Our present output is not sufficient to give everyone what most of us have come to regard as the essential of a decent livelihood, no matter how evenly it is distributed."

CHARLES SAWYER
Secretary of Commerce.

"If maintaining our financial intergrity requires extra taxes, we must face the music and pay them. If it requires rigid economy in civil or military expenditures by government officials, we should tighten our belts and practice it. If it requires a recognition by the farmer that there are limits to government subsidy, by the worker that he must exercise restraint in his demands, the farmer and the worker should face up to the facts and share the common burden."



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Honolulu, Hawaii

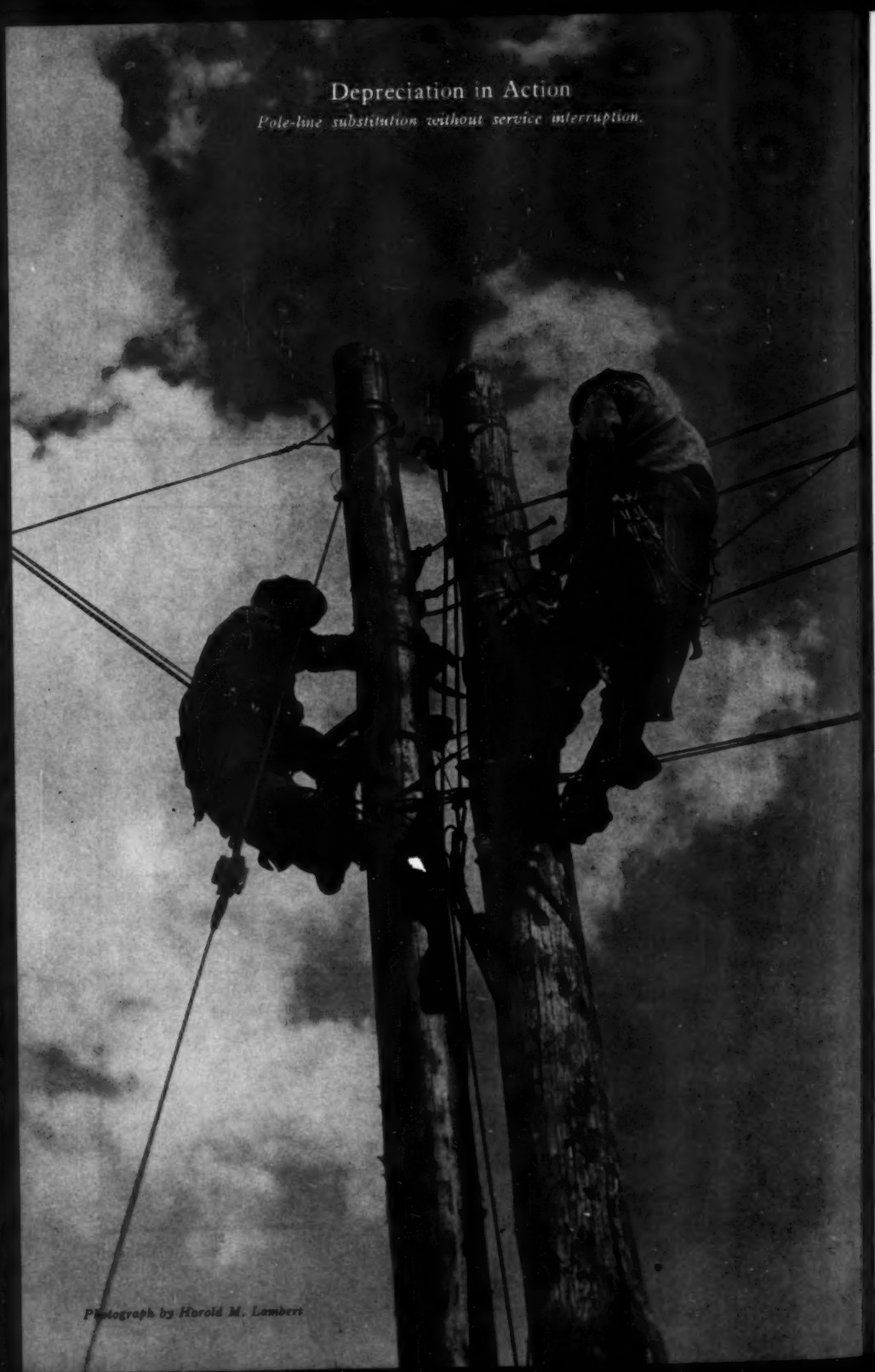
CANADIAN ASSOCIATE

[illegible]

Utilities Almanack

NOVEMBER

10	Th	¶ *National Council of State Boards of Engineering Examiners begins annual meeting, Daytona Beach, Fla., 1949.*
11	F	¶ *National Hotel Exposition ends, New York, N. Y., 1949.* ¶ *Mid-Southeastern Gas Association ends meeting, Raleigh, N. C., 1949.*
12	Sa	¶ *American Society of Mechanical Engineers will hold annual meeting, New York, N. Y., Nov. 27–Dec. 2, 1949.*
13	S	¶ *National Association of Housing Officials begins annual meeting, Boston, Mass., 1949.*
14	M	¶ *Refrigeration Equipment Manufacturers Asso. begins exposition, Atlantic City, N. J., 1949.*
15	Tu	¶ *Georgia Independent Telephone Association ends convention, Atlanta, Ga., 1949.* ¶ *Missouri Telephone Association ends convention, Jefferson City, Mo., 1949.*
16	W	¶ *American Water Works Association, Florida Section, ends annual meeting, Orlando, Fla., 1949.*
17	Th	¶ *New England Governors' Conference begins, Boston, Mass., 1949.* ¶ *New Jersey Utilities Association begins annual meeting, Absecon, N. J., 1949.*
18	F	¶ *Alabama Independent Telephone Association ends annual convention, Montgomery, Ala., 1949.*
19	Sa	¶ *American Water Works Association, New Jersey Section, ends annual meeting, Atlantic City, N. J., 1949.*
20	S	¶ *National Personnel Conference of the Gas Industry will be held, Cincinnati, Ohio, Nov. 28, 29, 1949.*
21	M	¶ *Wisconsin Utilities Association, Electric and Gas Sections, begin joint annual convention, Milwaukee, Wis., 1949.*
22	Tu	¶ *Exposition of Chemical Industries will be held, New York, N. Y., Nov. 28–Dec. 3, 1949.*
23	W	¶ *Interstate Oil Compact Commission will hold annual meeting, New Orleans, La., Dec. 5–7, 1949.*


Depreciation in Action
Pole-line substitution without service interruption.
Photograph by Harold M. Lambert

Public Utilities
FORTNIGHTLY

VOL. XLIV, No. 10 NOVEMBER 10, 1949

Raising $400,000,000 Requires Organization

How the American Telephone and Telegraph Company planned and trained its force for the raising of over a billion dollars of new capital for its huge postwar service and construction program.

By FREDERICK A. WISEMAN*
ASSISTANT TREASURER, AT&T COMPANY

WHEN the American Telephone and Telegraph Company last spring announced it would offer to stockholders another large convertible debenture issue — this one nearly $400,000,000 — the financial community recognized it as a tremendous undertaking. It was the largest single piece of corporate financing in history.

Together with the $700,000,000 obtained from convertible debenture issues of 1946 and 1947 and premiums of $145,000,000 received on conversion of debentures, this new issue has brought to over $1.2 billion the new capital raised by the AT&T Company through convertibles since the war. This is more than a third of the total amount raised since VJ-Day by the Bell system as a whole to carry on its huge postwar service improvement and construction program.

The final results of the 1949 issue,

*For additional personal note, see "Pages with the Editors."

tabulated after the closing date for subscriptions on June 20th, revealed that close to 98 per cent of the offer had been subscribed for, a slightly higher percentage than for either of the two preceding issues. The company had again successfully sold a large convertible debenture issue, its third in the postwar period.

Probably the most important element in the success of these issues was the terms of offering—factors which gave valuable rights to the stockholders and provided an investment attractive to small as well as large investors. Faith of the company's hundreds of thousands of shareholders in the integrity and future of the Bell system, and similar confidence evidenced by new investors, were also factors; in the last four years the company's stockholders have increased from 680,000 to over 800,000, and the growth continues.

But there was still another important contribution to the success of each convertible issue: the spirit, enthusiasm, and tireless effort of the people who handled the issue itself. These people did a highly effective job; they gave good service to the stockholders; and, for the 1949 issue, they handled 700,000 transactions promptly and accurately. In short, they constituted a good organization.

GOOD organization in a large corporate business seems to be taken for granted these days. Perhaps it is obvious that, to meet the challenge of changing years, private enterprise can grow and prosper only if it continues to have good organization. Nevertheless, good organization doesn't just happen. Its creation and effectiveness require correct analysis of the job to be done, followed by the application of effort, knowledge, experience, and, just as important as an understanding of the task at hand, an appreciation of human nature — what makes people work together. No important enterprise can go forward successfully unless there is understanding and coöperation among the people that make up the organization.

To establish a large temporary organization to handle a security issue is not difficult, but it requires hard work. In New York or any other large city, it is not hard to find several hundred persons for temporary work. But their selection and training are vital. If the people selected are competent, they will respond to the right kind of leadership and training. If proper facilities are made available for their training, good results may be expected, because people entering a new experience or unfamiliar surroundings are anxious to learn quickly about their new environment, what is expected of them, and—of major importance—how they fit into the scheme of things.

SUCCESS in a large temporary undertaking depends greatly on advance planning—decision on what to do and ability to do it. This applies to procedures, employment, training, and providing the required working space and tools. Workable systems and procedures must be established well in advance in order to do an effective training job. There must be proper working conditions—space, equipment, and supplies. Consideration must also be given to the comfort and convenience of the people who are to use these working facilities. If all of these factors have

been handled well, the people employed can be depended upon to do a good job.

The 1949 issue of convertible debentures was offered to AT&T stockholders in the ratio of $100 of debentures for each six shares of stock held. Each shareholder was mailed a warrant representing the number of rights granted him on the basis of one right for each share of stock held. No fractional warrants were issued; each stockholder received one warrant for his rights. By executing and returning this warrant the stockholder could either (1) subscribe to the debentures, (2) sell his rights, (3) buy debentures and sell excess rights, (4) buy more rights in order to purchase more debentures, or (5) transfer some or all of his rights to someone else.

In the light of previous experience, preparations were made to receive 200,000 subscriptions and as many as 375,000 requests to sell rights, to say nothing of handling "split" orders, warrant transfers, and letters and telephone calls of inquiry. Past experience also indicated that to handle this vast mail-order business in the short time available would take a working force of nearly 800 people. While the AT&T and other Bell system companies in the metropolitan area could provide a supervisory staff, 650 workers had to be recruited from outside sources. Most of them would be women, with stenographic or typing experience essential in some cases, but just good common sense for most of the people.

Letters were sent to Bell system employees in the area asking them to assist by informing friends and relatives of the temporary clerical positions available. This resulted in hiring about 300 persons. From its roster of former regular and temporary employees the company found another 200 who wanted to help out on a short-term basis. About 50 were obtained through the placement bureaus of 25 eastern colleges and universities. Other sources furnished the remainder. In all, over 2,500 people were interviewed, and the references of all new employees investigated.

Like the stockholders they were to have contact with, these employees came from many walks of life. Their ages ranged from eighteen to over sixty. While most of them were housewives and students, they also included a model, an actor, a university professor, a theological student, a former OPA district director, and a hotel owner. About one-quarter of the temporary nonsupervisory employees and one-half of the supervisors had previous experience with similar security issues, but all of them had to be trained or retrained in the details connected with the new issue.

Without attempting to develop Wall

¶ "Good *organization in a large corporate business seems to be taken for granted these days. Perhaps it is obvious that, to meet the challenge of changing years, private enterprise can grow and prosper only if it continues to have good organization. Nevertheless, good organization doesn't just happen.*"

Street financiers overnight, so to speak, the company early in May started its training sessions, which varied in length from one day for all personnel to two weeks for a few specialists. In telling its 650 new employees about the task ahead, instructors began at the beginning. They described the composition and operations of the Bell system and the part played by AT&T as parent company. Terms of the offer and financial words and phrases were explained in lay language. Employees who had not known a debenture from an indenture soon learned the answer. They learned the difference between a stock and a bond, a bond and a debenture, a straight debenture and a convertible debenture. They learned the meaning of a "right" and a fiduciary, and it was not very long before they had mastered, for all practical purposes, the language of the Street. Some of the temporary employees then went directly to work, learning about their assignments on the job.

BUT for many, considerable advanced training was necessary to prepare them for more specialized work. For those who would process the subscriptions for the debentures, huge "blow-ups" of the warrant form set on easels were used to point out what would constitute a properly filled-in form. The students were asked to consider themselves as stockholders, for the moment, and to fill out practice warrants in all possible ways so as to familiarize themselves with the actual warrants they would receive from actual stockholders.

Not only was it important that each employee understand the care necessary in handling payments and negotiable papers, but it was vital that each appreciate the value of giving the best possible service to stockholders and full coöperation to fellow workers—the same spirit of service that marks telephone men and women the country over. This was particularly important for those who worked at the temporary public office set up at AT&T headquarters, meeting face to face the stockholders who chose to conduct their business in person.

WHILE the great majority of stockholders would fill out their requests in perfect order, some undoubtedly would make mistakes. This is quite understandable, considering that warrants are not issued every day of the year and there are always some complexities in an offer to stockholders. In order to handle incomplete subscriptions and other irregularities requiring correspondence with the stockholder, as well as inquiries from stockholders, a large number of the college-trained employees were instructed in proper letter-writing and telephoning procedures. Case material was used extensively, with sample stockholder letters of all types discussed and company replies prepared. Form letters helped speed the flow of work in some instances; in others, replies had to be hand-tailored. Here, again, the idea of giving good service pleasantly and naturally was emphasized.

After the selection and training of the employees, the quality of their work depended largely on the right kind of supervision. Past experience proved the wisdom of selecting top-notch supervisory people to work with the temporary force, and this produced excellent results; one of the major

Planning for Financial "Task Force"

"SUCCESS in a large temporary undertaking depends greatly on advance planning—decision on what to do and ability to do it. This applies to procedures, employment, training, and providing the required working space and tools. Workable systems and procedures must be established well in advance in order to do an effective training job. There must be proper working conditions—space, equipment, and supplies."

items was the reduction of costly overtime from 12 per cent of regular hours in 1947 to 3 per cent for the 1949 issue. In many other respects, too, the issue organization was more efficient than any of the company's previous issue groups. As the work tapered off and the temporary force was reduced toward the closing date, the company was able to place in regular Bell system jobs seventy-seven of the temporary people who wanted permanent work. This is twice as many jobs as the company was able to find for employees on any previous issue.

THE spirit and enthusiasm mentioned earlier were evident in even the simplest of jobs. One group of seventy women, for example, worked with keen interest on the task of opening mail. Three sides of each envelope were cut so that no enclosures could be overlooked. The envelopes and the enclosures were then pinned together and the mail dispatched throughout the organization for required attention. These people in a short period handled 530,000 incoming pieces of mail—over 60,000 in one day.

Another group of fifty women, also with enthusiasm, sorted numerically and filed small sections of paper cut from each of the 800,000 warrants. This file provided information as to what warrants had been used in subscription, sold, or transferred. As many as 55,000 of these warrant segments were filed in one day and the employees took pride in keeping the file right up to date at all times.

These as well as other employees were enthusiastic not because of their particular job but because they were contributing to the success of an important and worth-while undertaking. Those handling the mail could sense how the issue was going from day to day by the volume received and by the tone and nature of the incoming let-

ters. The women filing the segments cut from the warrants could likewise measure day-to-day results from the number and types of transactions indicated by the warrant segments which they had to file. And throughout the organization there was great interest among the employees—how successful would it be?—what percentage of the total offer would be subscribed?

THIS interest in the over-all job—in success of the issue—got its original impetus from the one-day indoctrination course in which all new employees participated. The first part of this day was devoted to an explanation of what the Bell system is and what it does. It is not difficult, of course, to convince an interested person that the Bell system has a worthwhile job to do. The second part of the day was devoted to a discussion of the convertible issue—what it means to the investors, the need for funds to carry forward a construction program to meet the demands for telephone service, and the importance of the issue to the stockholders who are the owners of the business. It is easy to tell an interesting and convincing story of the importance of a $400,000,000 issue.

Through the indoctrination course, followed during the period of employment with an attitude of coöperation and helpfulness on the part of the supervisors, there could be no doubt in the minds of the individual workers that they were taking part in an important and worth-while undertaking. Each knew that he was part of an organization with a big and vital job to do.

THERE is nothing new in this approach to encouraging the right attitude among people brought together on a common job. Some twenty-five or thirty years ago an officer of the AT&T Company recognized and emphasized the importance of employee attitude by the story of two stonecutters:

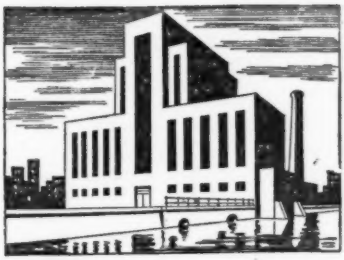
A man approached a construction project and stopped to talk to the workmen. He asked a stonecutter what he was doing. The man replied that he was cutting a stone to fit in with the next one which was already in place. He pointed out that the surface of the stone he was cutting must measure exactly 13½ inches.

The spectator went farther along to where another stonecutter was working and asked him what he was doing. The second stonecutter looked up with a gleam in his eye and said he was building a cathedral. It was to be one of the finest in that section of the country. It would have a steeple 627 feet above the ground; it would have a magnificent interior; the stone work was to be of the finest quality of selected granite.

And so it was in the security issue organization, where 800 people were building a cathedral and very few, if any, just cutting stones.

¶ "OUR *socialistic spending experiments may be leading us to a shortage of dollars—just as Britain's socialistic spending experiments have played a part in her shortage of dollars.*"

—HOMER C. CAPEHART,
U. S. Senator from Indiana.



What's in a Name ?

PART I

Ever since the public service industry became established, various public utility companies have followed their own traditions for the naming of plant buildings and other great structural works. Sometimes they have been named after leading executives, sometimes after local personages whose activities made such buildings and construction possible. Sometimes promotional pioneers were honored. This 4-part article is the result of a personal survey by the author into the origin of the names of public utility buildings and structures.

BY J. LOUIS DONNELLY*

NEARLY thirty years ago, on December 19, 1921, Thomas W. Martin, president of the Alabama Power Company, made the dedication address as a new project on the Coosa river was named in honor of James Mitchell, his predecessor as head of the power company.

"We are gathered here today to dedicate a great public work to the service of man; and in the dedication to give it the name of the man of brilliant mind and vision who made it possible of attainment," said Martin.

This is believed to have been the first of a long series of ceremonies throughout the country honoring leaders in the electric utility industry. The practice has had added impetus during the past few years as new power plants have started operating as part of the industry's multibillion dollar postwar construction program.

However, the naming of power plants in honor of men who contributed to the progress of electricity in this country was not a new development when Mitchell dam was dedicated.

Many years earlier, at the instigation of Samuel T. Hauser, who was one of the first men to develop the Missouri river for hydroelectric power in Montana, there was built the Hauser dam. It was completed in 1907, and was rebuilt in 1911 after collapsing in 1908. Both the original project and the second one, which is now in operation, were named at their completion in honor of General Hauser who served as seventh territorial governor of Montana.

In 1915, Montana Power Company named a project after Max Hebgen,

*For personal note, see "Pages with the Editors."

former vice president and general manager who died during that year. This was one of the early instances of an installation being named for a person serving as an official of an electric company.

Webber dam of Consumers Power Company in Michigan was built in 1907. It carries the name of a banker in Portland, Michigan, who handled some of the work of land purchase. It appears to have been the first of the company's dams named after an individual. The first dam named after a man prominent in Consumers Power was Foote dam in 1918. William A. Foote was a principal founder of Consumers Power.

THE idea of name plants is believed to have originated with the building of dams on rivers in various sections of the country and the need for identifying these man-made lakes. As hydroelectric stations were constructed names were again needed. Usually there was no identifying locality for which such a development could be named.

It was only natural that the practice should later extend to steam generating stations.

In 1926, directors of the Buffalo General Electric Company, desirous of perpetuating the memory of Charles R. Huntley, late president and directing head of the company at the time of its organization, voted to designate the River station as the Charles R. Huntley station. This plant, first built in 1916, has since been greatly expanded until today it is the third largest steam generating station in the world with a capacity of 625,000 kilowatts.

Plant dedication ceremonies today are important company and regional affairs. Whether the new power station be named after an individual or a locality, the occasion is an important one, attended by leading state and civic officials.

Over the years approximately ninety power plants, located in twenty-nine states, have been named after individuals.

Commonwealth & Southern Corporation, one of the large holding companies, through its subsidiary, Alabama Power, thus honored the president of Electric Bond and Share, Sidney Z. Mitchell.

On November 21, 1927, the Lock 18 development of Alabama Power was designated as Jordan dam to commemorate the service to the electric industry of Reuben Alexander Mitchell and Sidney Zollicoffer Mitchell. The project was named Jordan dam in memory of their mother, Elmira Sophia Jordan Mitchell. At the time of the ceremony, Colonel R. A. Mitchell was vice president of the company and Sidney Z. Mitchell, who organized the Electric Bond and Share Company, was a director.

This was a notable day in Alabama. The occasion brought forth the largest and most representative gathering of citizens and men of affairs ever assembled in the state for a similar event. Speakers included Bibb Graves, governor of Alabama; Lewis E. Pierson, chairman of the American Exchange-Irving Trust Company and president of the United States Chamber of Commerce; Dr. George H. Denny, president of the University of Alabama; Owen D. Young, chairman of the General Electric Company;

Thomas W. Martin, president of Alabama Power; and the Messrs. Mitchell.

OUT in California, on November 27, 1911, brothers were again honored. They were John C. and Edward Coleman of San Francisco who had been active in the Bay Counties Power Company and other early companies prior to formation of Pacific Gas and Electric Company in 1905.

Various installations of Pacific Gas and Electric are named for bankers and businessmen as well as company officials. These men include Romulus R. Colgate, member of the soap manufacturing family; Frank C. Drum, San Francisco banker, who was credited with saving the newly formed PG&E through a financial crisis after the fire and earthquake of 1906 and was named president of the company in 1907; and N. W. Halsey, New York banker, who was largely responsible for the successful underwriting of the company's first bond issue in the midst of the panic of 1907.

Arkansas Power & Light Company has its Carpenter dam, named in 1931 for an old steamboat captain, Flave Carpenter. The love of backwoods folk for good corn "likker" is described as contributing to the hydroelectric development of the Ouachita river. As a river pilot and captain, Carpenter knew every crosscurrent and sand bar in this swift river. Later as a "revenuer," he learned the hillsides. He persuaded Harvey C. Couch, founder and builder of the present Middle South Utilities System, to accompany him on a steamboat trip up and down the Ouachita and interested Couch in the hydroelectric development of the river. However, a license was needed from the Federal Power Commission at Washington.

Another outsider then entered the Arkansas picture and was similarly honored. Remmel dam is named after Colonel Harmon L. Remmel, for years Republican National Committeeman from the Democratic state of Arkansas.

Remmel introduced Couch to his friend, Secretary of War Weeks.

"This is Mr. Couch," the Colonel said. "He's a friend of mine and a Democrat, but good enough to be a Republican. He wants to build a dam in Arkansas and wants you to hold a meeting of the commission Monday to issue a license."

"Mr. Couch," the Secretary asked, "are all your papers properly filled out and ready?"

"Yes sir," Mr. Couch replied eagerly. "Everything is in good shape and ready for examination."

"All right, Colonel," replied Secretary Weeks. "You never failed me and I won't fail you. This meeting will be held Monday morning and the license will be granted."

¶ "RATHER *than name one of its stations after one individual, directors of the Niagara Falls Power Company in 1927 honored the Schoellkopf family. Four generations of Schoellkopfs have been identified with the industry starting with Jacob F. Schoellkopf I, who was the original pioneer in the power development of Niagara Falls . . .*"

As the visiting pair left Weeks' office, Couch said to Remmel: "You have done me a great favor, and to express my appreciation that dam will forever be known as 'Remmel Dam.'"

RATHER than name one of its stations after one individual, directors of the Niagara Falls Power Company in 1927 honored the Schoellkopf family. Four generations of Schoellkopfs have been identified with the industry, starting with Jacob F. Schoellkopf I, who was the original pioneer in the power development of Niagara Falls, down to Paul A. Schoellkopf, Jr., now a director.

Two plants will honor Eugene Adams Yates, president of the Southern Company. Alabama Power on June 28, 1947, dedicated its former Upper Tallassee station, which was the site of the first hydroelectric development in Alabama, in honor of Yates who was then vice president of the Commonwealth & Southern Corporation. Yates had become associated with Alabama Power in 1911 as chief engineer and later became its vice president and general manager. It was he who recommended formation of the Southeastern Power & Light Company, formed in 1924, which today largely comprises the Southern Company.

A new plant is now under construction at Newnan, Georgia, by the Georgia Power Company and scheduled to be completed in 1950. This will also be named in honor of Yates.

Perhaps the most prominent outsider to be honored by this industry was General William C. Gorgas, known as the world's greatest sanitarian. Alabama Power Company, on September 16, 1944, dedicated in his honor the Gorgas steam plant. It was first placed in service in 1917 and later expanded into two stations. Back in 1915, Thomas W. Martin, then a junior officer of Alabama Power, obtained permission from General Gorgas to name the steam electric plant and village then being developed in Walker county for him. He gave his consent and Gorgas post office was formally established on April 18, 1918.

DEDICATION ceremonies have changed but little over the years. Consumers Power Company on April 28, 1949, dedicated its new $25,000,000 plant at Muskegon, Michigan, in honor of B. C. Cobb, former Consumers president. Principal speakers were Governor G. Mennen Williams and Justin R. Whiting, president of both Consumers Power and Commonwealth & Southern Corporation.

Telling why the plant was named in honor of B. C. Cobb, Whiting said:

> Mr. Cobb is one of the great pioneers of the electric industry. It was he, more than any other man, who built up Consumers Power Company into the great organization for public service that it is today. Mr. Cobb was the chief executive of Consumers Power Company from 1915 until 1934, which, as you all know, was a period of very great development. Mr. Cobb was also the first president of Commonwealth & Southern Corporation, in which he was later succeeded by the late Wendell L. Willkie and subsequently by your speaker.

Pointing out that Cobb came to Michigan in 1889 and started in the utility business at Grand Rapids, Whiting added:

> He furnished the leadership when various small local electric and gas companies were put together in the

How Plant Names Began

"THE idea of name plants is believed to have originated with the building of dams on rivers in various sections of the country and the need for identifying these man-made lakes. As hydroelectric stations were constructed names were again needed. Usually there was no identifying locality for which such a development could be named."

statewide network of Consumers Power Company. It was inevitable that some day a power plant would be named for Mr. Cobb.

DECISIONS as to the honoring of company officials have rested with boards of directors. Where the individual is still active there has been a natural reluctance to accept and in many cases considerable persuasion has been necessary.

One company executive delayed his dedication ceremonies for ten years. Back in 1926 directors of Alabama Power Company voted a resolution renaming Cherokee Bluffs dam as Martin dam and Martin lake in honor of Thomas W. Martin, president. It was resolved that upon the beginning of the operation, a fitting ceremony be held. Although called to his attention a number of times, the modesty of Martin held off the honor and it was not until October 16, 1936, that dedication ceremonies were held.

Many are the pioneers in this industry whose names have been perpetuated by having large power installations named in their honor.

One of these is Judge James H. Reed, former president of Duquesne Light Company from 1899 to 1919, and from 1919 until his death in 1927, senior vice president of the Philadelphia Company, Judge Reed organized and aided in directing many of the greatest corporations in the country. Adviser to Andrew Carnegie, he was one of the organizers of the United States Steel Corporation and a member of its first board of directors. Formal dedication of the James H. Reed power station at Brunot Island took place on October 16, 1930. The dedicatory address was made by United States Senator David A. Reed, son of Judge Reed.

DUQUESNE LIGHT, on January 5, 1943, honored another of its

great pioneers, Frank Reith Phillips, by naming a new power station in his honor. During his association with the Pittsburgh Railways Company, from 1909 until joining Duquesne Light as vice president and general manager, Phillips became prominent for his activity in design and construction of street railway cars. In 1928 he was made senior vice president of the Philadelphia Company and president of all its subsidiaries, which position he held until his election to the chairmanship of Philadelphia Company and subsidiaries in 1942. Phillips was active in the American Transit Association, Edison Electric Institute, and American Gas Association. He was to have taken part in the dedication but died in October, 1942.

SOME of the early leaders of the industry shunned publicity. Such a man was George N. Tidd, founder and for many years president of the American Gas & Electric Company. Not much information is available as to this pioneer.

Tidd started out as a telegrapher late in the nineteenth century in his native state of Pennsylvania and later entered the electric field. By 1923 he had become known as one of the foremost operating electrical engineers in the country and in that year he was elected to the presidency of American Gas & Electric. At one time in testifying before a Federal Trade Commission hearing he stated that, when the American Gas & Electric Company was organized, it acquired properties rejected by others, because the assets consisted mainly of electric light and power property and there was not sufficient electric street railways owned to justify risking an investment. The Tidd plant at Brilliant, Ohio, named after this man, has never been formally dedicated in the accepted sense.

ORIE H. HUTCHINGS devoted nearly fifty-seven years of his life in the service of Dayton Power & Light. Directors of this company in a resolution adopted September 10, 1948, two months after the death of Hutchings, said:

"Those of us associated with Dayton Power & Light Company—as well as the thousands on farms, in homes, in business, and industry who share in the advantages of dependable, low-cost service—owe much to the imagination and inventive ability of Orie H. Hutchings. The results of his work have touched the lives of nearly every person in the Miami valley." Hutchings died only a few weeks after opening the throttle to start the new O. H. Hutchings electric generating station south of Miamisburg, Ohio. He was first employed by a predecessor company in 1892. Within twelve years he was superintendent and in 1915 became associate general manager and engineer. A year later he became a director, and in 1921 was made vice president and general manager. He relinquished his managerial responsibilities in 1935 but continued active as vice president and director.

Carolina Power & Light Company on December 9, 1933, dedicated its hydroelectric station at Mt. Gilead, North Carolina, in honor of Paul Allen Tillery who had been with the company since 1910 and at the time of his death in January, 1933, was president and general manager. Tillery had been closely identified with public activities

and was an important contributor to the industrial and general economic development of the Carolinas.

In the spring of 1928, Otter Tail Power Company at a dinner held in Wahpeton, North Dakota, announced that it would name its new station at that town in honor of C. B. Kidder, the company's first general manager. Shortly after the plant went on the line, a few months later, there was an open house for the citizens of Wahpeton and the surrounding territory.

At modest ceremonies in New Haven, Connecticut, twenty years ago, the United Illuminating Company named a generating station in honor of James English who had been president of the company almost since its organization.

ORGANIZING ability and vision were the chief attributes of A. M. Lynn who was honored by the West Penn Electric Company on September 14, 1927, at the dedication of Lake Lynn and the Lake Lynn hydroelectric station. Albert Maxfield Lynn was a former president of West Penn Power and had been associated with the American Water Works & Electric Company. In describing Lynn the dedication program had this to say:

> The idea which has come to fruitage in this brick and stone may not be credited to him, for it was born of other minds; but Mr. Lynn, with true genius, perceived the worth of that idea and incorporated it into his own thinking and translated it into actual achievement. Neither may we claim for him whose memory we revere today, any gift of engineering genius as it relates to this plant; but we all know how his organizing ability brought the minds of others into action, with what results we can readily see. The facts are that neither the idea nor the engineering ability would have been brought to a definite end, had it not been for the contribution of Mr. Lynn to this project. No justifiable need would have existed for so great an investment without the vision of this man whose name we perpetuate forever on this dedication day.

Lynn's successor as president of West Penn Power, Harry L. Mitchell, has been similarly honored. On March 15, 1949, the company at formal ceremonies dedicated its new steam-electric station at Courtney, Pennsylvania, as the Mitchell power station. Mitchell was able to rise from an obscure clerkship to the position of executive head of this company. The story of his career was a history of the development of the West Penn system, to which he gave forty-six years of service. He was still active when he died suddenly in September, 1948.

A farm boy who became a builder of a utility and a railroad empire was Harvey C. Couch, one of the most colorful figures in the reconstruction of the South. Arkansas Power & Light on July 16, 1943, dedicated a new steam plant at Stamps, Arkansas, in honor of Couch. Harvey Couch did more for Arkansas than any man, ac-

¶ "ONE *company executive delayed his dedication ceremonies for ten years. Back in 1926 directors of Alabama Power Company voted a resolution renaming Cherokee Bluffs dam as Martin dam and Martin lake in honor of Thomas W. Martin, president.*"

cording to one Arkansas newspaper. He dreamed not of future greatness for himself but of the benefits to humanity that a great industrial system of power and lights and railways might be to his own home state.

Two pioneers in the development of New England's water-power resources were honored in October, 1930, when New England Power Company affixed to a large boulder monument a bronze plaque in honor of Malcolm G. Chace and Henry I. Harriman. This was unveiled at Whitingham, Vermont, near the site of Harriman dam, with its unique "morning glory hole" spillway. The inscription on the plaque reads: "The judgment, sagacity, and courage of Malcolm Greene Chace, and the resourcefulness, energy, and industry of Henry Ingraham Harriman, were important factors in changing the Connecticut and Deerfield rivers from waste falling waters into streams harnessed for the service of New England and the benefit of mankind."

Development of a transaction in 1899 involving $1,500 into a multimillion dollar utility corporation was the achievement of Walter S. Wyman, late president of Central Maine Power Company. Wyman, shortly after his return to Maine on being graduated from Tufts College, wanted his employer, the Fairfield Railway & Light Company, to extend electric service from Oakland to Waterville. Unsuccessful in this move he turned to his friend, Harvey D. Eaton, a successful attorney, who was so impressed that he mortgaged a building he was erecting in Waterville to purchase the Oakland plant for $1,500. Wyman's experience in financing utilities led him into banking and he branched out into textile and other branches of manufacturing.

Central Maine Power was founded on the framework of the old Messalonskee Company in 1910 and Wyman served as treasurer and general manager until 1924 when he became president, serving in that capacity until his death in 1942 at the age of sixty-eight. Directors of Central Maine Power named the station at Bingham, on the Kennebec river, in his honor. Placed in operation in 1930, it is the second largest hydro plant in New England. Walter S. Wyman was succeeded as Central Maine Power president by his son, William F. Wyman.

Back in 1886, an electric light company was formed in Manchester, New Hampshire, with J. Brodie Smith, a former druggist, as superintendent and practically the whole operating force. In 1890, this small company put into operation the first incandescent lamps used in the state. Smith's career followed the growth of the utility business until he became vice president, general manager, and a director of Public Service Company of New Hampshire at its formation in 1926. In addition to his work as vice president of the company, he was active in many civic organizations almost to the time of his death in 1947, at the age of eighty-six. The 15,000-kilowatt hydroelectric station on the Androscoggin river at Berlin, connected to the system in May, 1948, was named for J. Brodie Smith, engineer, inventor, civic leader, and pioneer of the electric industry in New Hampshire.

The tobacco industrialist who found-

ed the Duke Power Company in 1904 was honored by that company in 1926. The steam station located at Salisbury, North Carolina, was dedicated as the Buck steam station in honor of James Buchanan (Buck) Duke. Another pioneer, William States Lee, who was associated with Duke in the organization of this power system, will be similarly honored later this year on completion of a new 180,000-kilowatt station at Anderson, South Carolina.

Peter O. Knight saw Tampa, Florida, develop from a small fishing village to its present importance. His work in developing the Tampa Electric Company as vice president and president was recognized a few years ago when directors voted to change the name of the Jackson street station and to honor him.

A South Carolina attorney, Benjamin Adger Hagood, who declined a post as judge of the United States Court for the Eastern District of that state, became the first president of the South Carolina Power Company when it was formed in 1926. This company in 1948 named its new plant at Charleston in recognition of his services and his personal qualities.

WILLIAM PATRICK LAY, founder and first president of Alabama Power Company, was honored November 23, 1929, when this company renamed its development at Lock 12 on the Coosa river as Lay dam. Captain Lay organized the Alabama Power Company on December 4, 1906, and a year later obtained a grant from Congress authorizing the construction by the company of a dam and power plant on the Coosa river. However, it was not until 1912 that he was able to obtain the necessary capital to proceed with construction.

Two pioneers have been honored by New York State Electric & Gas Corporation. These are Charles A. Greenidge and William G. Hickling. Greenidge station was dedicated in 1938. It was Greenidge's farsightedness that led to the construction of the generating station at Dresden, New York, in preparation for a large demand for power. In naming the plant Greenidge station, the company's board of directors adopted a resolution stating that he had "given unstintedly of his time and energy to make provisions for adequate electric generation for the New York State Electric & Gas Corporation, which ultimately resulted in a new plant located at Dresden."

When the cornerstone of the Hickling station was laid October 31, 1947, Lieutenant Governor Joe R. Hanley officiated. At the time of his death, April 10, 1947, Hickling was vice president and general manager. The station was dedicated to William G. Hickling "whose engineering vision and ingenuity contributed so much to the further development of low-cost power for this region."

On May 28, 1937, directors of Indianapolis Power & Light Company changed the name of the former Kentucky avenue power plant, as well as the former Washington avenue power plant to, respectively, the C. C. Perry plant, Section K, and the C. C. Perry plant, Section W, in honor of Charles C. Perry, who for a period of thirty-two years, and up until the time of his death in September, 1924, had served as president. In 1888, Perry formed

the Marmon-Perry Light Company, with Daniel W. Marmon as a partner, and this became the forerunner of the present Indianapolis Power & Light Company. It is stated that, during his lifetime, no other person had a closer association with the growth of the electrical industry in Indianapolis, as well as the city itself, than did Mr. Perry.

NEW YORK POWER & LIGHT CORPORATION has named its Beardslee Falls hydro station for Guy Roosevelt Beardslee who in 1899 became a pioneer in farm electrification when he connected some farm neighbors to his small distribution system. This company also named its Elmer J. West hydro station for a man who pioneered in the Adirondack area of New York state, forming the Hudson River Water Power Company, also in 1899. In the early 1900's he acquired a vast amount of land in the Sacandaga valley for water storage. It was these water storage rights which made it possible to build the Conklingville dam and form the Sacandaga reservoir, whose water is used to operate the Elmer J. West station which was dedicated in May, 1930.

Two individuals who guided the expansion and growth of the electric industry in Georgia, from the original one-town company to the present Georgia Power Company that serves nearly the entire state, were honored by Georgia Power.

Henry Morrell Atkinson had the vision of a great, unified electric system for Georgia years before it became a reality. Plant Atkinson was dedicated in his honor at public exercises on October 17, 1930, when the first unit was placed in operation. Atkinson died on January 21, 1939.

Preston S. Arkwright, the other member of this team, was chairman of Georgia Power at the time of his death on December 2, 1946. He had been president of the company's predecessors, the Georgia Railway & Electric Company from 1902 to 1911, and the Georgia Railway & Power from the date of its formation in February, 1927, until he became chairman in 1945. He was president of the National Electric Light Association in 1929 and president of the Edison Illuminating Companies in 1930 and 1931. Plant Arkwright was dedicated in June, 1941, in recognition "of his long and meritorious service to the electrical industry in Georgia and the nation."

PART II *of this article will appear in the next issue of the* FORTNIGHTLY.

"THERE is enough work on hand for every business now in existence, and for industries yet unborn, to keep busy for generations to come.

"Twenty-seven million Americans have no kitchen sinks; 18,000,000 Americans lack washing machines; 25,000,000 Americans lack vacuum cleaners; 1,000,000 American families need new homes this year; 40,000,000 Americans have neither bathtub nor shower."

—CHARLES LUCKMAN,
President, Lever Brothers Company.

Top Management Tips from Employees

The author has been long active in the handling of employees' suggestions for the Philadelphia Electric Company as well as director of the National Association of Suggestion Systems organized in 1942. Here is an account of how well this interesting technique pays off.

By S. W. RUBENSTEIN*

Employee suggestion systems save American industry millions of dollars every year, and provide added incentive to employees in the form of recognition and monetary rewards. Business firms in ever-increasing numbers are inaugurating employee suggestion plans, because they offer a method of tapping a vast reservoir of ideas which can be crystallized and made operative to the mutual advantage of employee and employer.

The many industrial innovations which originated through suggestion systems, especially during the war, have focused attention on the wealth of ingenuity that conceivably would be lost were it not for such plans. This contention was emphasized by Major General Leslie H. Groves, who, speaking at the annual conference of the National Association of Suggestion Systems last year, stated: "Suggestions played a large part in the development of the atomic bomb and, when duly considered, the value of suggestions in the war effort was startling."

The government's employee suggestion plans were stimulated during the war years, and have since been expanded to include most of the more important Federal agencies. In 1948, for example, 83,000 suggestions were submitted, of which 16,000 were adopted because these suggestions involved estimated savings to taxpayers of over $15,750,000.

In the field of private industry, Philadelphia Electric Company pioneered in the development of an employee suggestion plan forty years ago. Since its inception as a "Question Box" in the company's employee magazine, *Current News,* the plan has progressed to the point where it is now

*Director, employee activity division, Philadelphia Electric Company. See, also, "Pages with the Editors."

generally recognized as a model for the utility industry.

THE suggestion system is an integral part of the company's overall personnel and public relations policy. It is one of the first company projects impressed in the mind of the new employee, and occupies a prominent part of the indoctrination course provided for the fledgling members of the Philadelphia Electric family. Moreover, we consider it a primary force in bringing initiative to the fore, and therefore count heavily on the continued success of the plan.

Philadelphia Electric's concept of the suggestion system is set forth in a booklet, "Making Your Ideas Count," which is distributed to all employees. It defines a suggestion as "an idea that is going some place to do something." This theme and the lure of the cash awards granted for meritorious suggestions are likewise stressed on bulletin-board posters, flyers, and in the company's magazine.

In recent years PE has received some 8,000 suggestions and approved almost 2,500. Several of the suggestions, particularly those of a technical nature, have proved beneficial to other public utilities.

The high number of suggestions received can partially be attributed to the fact that, in suggestion activities, we are dealing with one of the basic wants of the average employee. That want is the desire for self-importance, for recognition, for respect. The suggestion plan is an open door to the fulfillment of that want. It brings its realization within the reach of the thousand and one John Smiths and Mary Browns who might otherwise go unnoticed in the average course of business. Furthermore, adopted suggestions, which always carry a cash award, give employees that "lift" so important to the maintenance of a high level of employee morale and satisfactory personnel relations.

THE foundation of a sound employee suggestion plan is management. Therefore, in order that it may be a successful activity, it is imperative that top management be sincerely interested in sponsoring operation, not only by approving the necessary costs, but by being enthusiastically interested in its objectives.

There are five primary objectives to be achieved:

1. Develop the latent capacities of employees.
2. Improve employee relations.
3. Increase efficiency.
4. Improve safety.
5. Offer stimulation by recognition of individual achievements by publicizing the individual attainment, and by making substantial financial awards.

A successful suggestion system must be fair to employees, fair to foremen, fair to supervisors, and fair to the company. The rules and regulations of the plan should be simple and easily understood. By means of effective publicity, effort should be made to insure that every employee knows how he can participate in the plan.

Employees at Philadelphia Electric are "sold" on what the plan will do for them because they clearly understand that the purpose of the suggestion system is not to check up on their work; rather, it is to serve as a method of

Why Employees Make Suggestions

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achieving personal recognition and, with it, cash compensation for their ideas.

The personnel of a suggestion committee should consist of experienced men who are sold on the plan and will enthusiastically support it, and endeavor to imbue their associates with that enthusiasm. The committee at Philadelphia Electric is composed of department heads or their assistants, inasmuch as the suggestion plan is a company-wide activity.

ONE of the most testy jobs involved in a suggestion plan is that of communicating with suggesters whose suggestions are not adopted. Philadelphia Electric has labeled such correspondence as "letters of explanation." The word "rejected" is neither fitting nor descriptive, and may create ill will toward the system. These explanatory letters present a valuable opportunity to influence the suggester, and are always plainly phrased so that he will understand the reasons. In them the suggester is assured that his idea was given careful consideration, was fairly judged, was sympathetically considered, and is regretfully returned.

It should be recognized that employees submitting unacceptable suggestions are nevertheless prompted by good intentions. Furthermore, in many cases an unadopted suggestion is followed at a later date by one which merits a reward.

That is one of the reasons why Philadelphia Electric insists on follow-up letters on all suggestions, with particular emphasis on those that were not adopted. A suggestion—good, bad, or indifferent—is important to its originator. The mere acceptance of an idea is not always a true measure of its merit.

Many of the most valuable suggestions received by the company have resulted from the development of ideas which, in their original form were not clearly expressed. The follow-up procedure brought out merits which might otherwise have gone unnoticed.

Philadelphia Electric Company classifies suggestions under three general headings:

1. Suggestions on which monetary savings can be estimated.
2. Suggestions on which savings cannot be determined. Suggestions under this classification are subdivided into the following categories: sales suggestions, safety suggestions, public relations suggestions, service continuity suggestions, and other suggestions which are major in scope.
3. Suggestions of a minor convenience nature, which may concern slight improvements in office routine and other changes affecting phases of the over-all operation of the company.

The financial awards made for adopted suggestions largely depend on their classification and are commensurate with their value to the company. The minimum award at Philadelphia Electric is $5, and the highest award granted to date has been $1,200.

EMPLOYEE suggestion systems are operative in virtually every nation, but they have come to their fullest fruition in the United States. Ideas are the tools of progress, and suggestion plans provide an opportunity to develop and capitalize on these tools to the advantage of all those concerned.

The growing popularity of suggestion systems in the United States is conclusive evidence that the spark which has for so long fired the imagination of American industry under the private enterprise system has not died. And, of equal importance, it demonstrates the fact that industry is not asleep at the switch of opportunity. More than ever before, it is ideas that lubricate the wheels of industrial progress, help assure our prosperity, and protect national security.

Suggestions Bring $2,330,000 Awards

"MORE *than $2,330,000 was awarded to 2,670,000 employees last year, according to a survey of suggestion systems covering 312 companies. The survey conclusions were reviewed at a meeting of the directors of the National Association of Suggestion Systems . . . [September 23rd] at the Statler hotel [New York city], according to F. A. Denz, administrator of suggestion plans for Remington Rand, Inc., and past president of the association.*

"Maximum rewards paid for suggestions are 'unlimited' by 226 companies out of the total participating in the study. Individual awards in excess of $10,000 were reported by Johnson & Johnson and the Cleveland Graphite Bronze Company.

"More than 520,400 suggestions were received by the 312 companies last year, and more than 134,000 were adopted. Compared with employee participation in 1948, trends this year were 'up' for 163 companies, 'down' for 107, and 'the same' for 42 organizations."

—EXCERPT *from The New York Times.*

Washington and the Utilities

Congress-White House Draw

THE first session of the 81st Congress, longest peacetime session in history, arose Wednesday evening, October 19th, faced the national debt—without a blush—and headed for home bailiwicks to explain why the country had to go into the red by $5 billion in an era of record production and employment.

Although most observers of the Washington scene are calling the White House-Capitol Hill battle over the President's "Fair Deal" program a draw, it is a fact that the party at 1600 Pennsylvania avenue got just about all the money he asked for his campaign-promised program of more and cheaper Federal electric power. His plans for the St. Lawrence seaway and numerous valley authorities got lost in congressional committee rooms, but strong efforts will be made to revive them next year.

TVA Steam Plant

THE President's first victory in the power field came with a deficiency appropriation of $2,500,000 to initiate construction of a $58,000,000 steam plant at New Johnsonville for the Tennessee Valley Authority, a request that had been rejected by the 80th Congress.

Opponents of the New Johnsonville plant argued that it could readily become the precedent or entering wedge for the Federal government to invade *any* field of business endeavor in direct competition with private enterprise. Although this view was apparently shared by Senators Guy Cordon (Republican, Oregon), Homer Ferguson (Republican, Michigan), Chan Gurney (Republican, South Dakota), Allen Ellender (Democrat, Louisiana), and A. Willis Robertson (Democrat, Virginia), of the Senate Appropriations Committee, the plant was approved, both in committee and on the Senate floor.

Army and Reclamation Projects

THE Army Civil Functions Appropriation Bill carried more than $400,000,000 to initiate or continue construction of nearly a score of projects that include power installations. These will have an ultimate cost of around $2.1 billion and total installed generative capacity of just under 4,000,000 kilowatts. In addition, the bill carried $3,000,000 for advance planning of hydroelectric projects with estimated final cost of $300,000,000.

Appropriations for reclamation projects involving hydroelectric installations and transmission lines, including $16,000,000 for transmission facilities in Bonneville Power Administration, totaled $350,000,000 with approximately 25 per cent allocated to irrigation.

The Senate Appropriations Committee, concerned that some of the lines would be senseless duplications of existing lines, and competitive with tax-paying private utilities, eliminated several from the House-passed bill, only to see them restored when the bill was acted on by the full Senate. However, funds were denied to initiate construction of the Delta steam plant in California, something the Bureau of Reclamation has wished to build for three years.

Passed by the House, but passed over by the Senate until next session, was the $1.1 billion omnibus flood control and rivers and harbors bill authorizing over

$100,000,000 in new flood-control projects with power installations. Although the President generally indorsed the idea of a "shelf" of public works to cushion a possible depression, there was no White House pressure to get the bill passed at this session.

Valley Authorities

Of the half-dozen bills to create valley authorities in various watersheds of the nation, only one—Columbia valley in the Pacific Northwest—got to the committee hearing stage; the others, including the proposed St. Lawrence seaway and power development, gathered dust in committee room pigeonholes.

The Columbia valley proposal, called an "administration" to avoid the more absolute word "authority," faced rough sledding before Public Works committees of House and Senate. Representative Will Whittington (Democrat, Mississippi), chairman of the House group, made no effort to conceal his hostility to the measure, while Senator Harry P. Cain (Republican, Washington), of the Senate committee, closely quizzed proponents on what he termed the "totalitarian features" he found in the bill.

Governors of six northwestern states —Washington, Oregon, Idaho, Montana, Utah, and Nevada—flatly declared a CVA "unnecessary and unwanted" by the citizens of the region. Their objections were that a CVA would have almost dictatorial powers over the economy of the region, and would become just another political machine, controlled from Washington.

Testifying for a CVA were the Secretaries of Interior, Agriculture, and Army, a few local farm organizations, including the left-wing National Farmers Union, two labor unions, and several holders of small state political posts, while Assistant Secretary of Interior C. Girard Davidson, also a witness, was continuously on hand at hearings as a sort of grand marshal of the parade of proponents.

Administration witnesses argued that a CVA would eliminate duplications of effort and overlapping of authority as are said to now exist in the Columbia valley with the Corps of Engineers and the Bureau of Reclamation handling water resources development. Opponents of the proposal expressed fear of a "super government" and declared that satisfactory progress is being made under the plans of the Army Engineers and Reclamation.

At the outset of the hearings, Chairman Dennis Chavez (Democrat, New Mexico) announced that the committee would visit the states of the Columbia valley to get "firsthand views on the ground." He declared the measure so far-reaching that the committee would wish to hear from the bona fide residents of the region before approving the proposal.

Secretary of Interior Krug gave Senator Chavez partial support in his desire to get "grass roots" opinions when he asserted that no valley authority can succeed without the wholehearted support of the residents of the region to be included. He said that he would oppose a referendum on the subject, but offered no objections to extensive hearings in the area. As this issue went to press, committee hearings in about 12 key cities of the Pacific Northwest are planned for early next year.

Gas and Appointments

A House-passed amendment to the Natural Gas Act, exempting producers and gatherers from control of the Federal Power Commission, remained on the Senate calendar, although extensive hearings were held by the Committee on Interstate and Foreign Commerce on the House measure and a bill by Senator Robert S. Kerr (Democrat, Oklahoma).

The White House-Senate brawl on presidential appointments ended in something of a draw. Former Governor Mon C. Wallgren of Washington, a close friend of the President, failed to become

chairman of the National Security Resources Board when the Senate Committee on Armed Services tabled his nomination by a 7-6 vote. The President later withdrew Mr. Wallgren's name, but again sent it up, the day before adjournment, for the post on the Federal Power Commission, denied Leland S. Olds by a 53-15 vote.

Rejection of Mr. Olds came after extensive hearings in which his radical writings of the 1920's became a part of the record. He testified that he would write the same things and express the same views today, but would probably use different language.

Rural Electrification

LENDING authority of the Rural Electrification Administration was set at $350,000,000 by the Senate, a $50,000,000 boost over the House authorization. In addition, REA was authorized to make loans totaling $25,000,000 to expand telephone service in rural areas at the same interest rate charged electrification coöperatives, and for the same length of time.

The $25,000,000 limit was disappointing to the coöperatives, as was a section of the bill requiring written certification by REA that local telephone companies could not or would not supply needed services. However the coöperatives feel they have "a foot in the 'phone booth" and will be able to get all the way in some time within the next year or two.

Labor and Social

CONGRESS balked at Taft-Hartley repeal, a major campaign promise; let Federal aid to education lay on the shelf; rejected the Brannan farm plan; deferred action on greater old-age benefits; declined action on a revival of price controls and other controls; and left a Federal Fair Employment Practice Act in the files of a Senate committee. About the only social or so-called welfare legislation the President extracted from Congress was a watered-down extension of rent controls to June 30, 1950, and a raise of the minimum wage rate from 40 to 75 cents an hour.

In summary, the session was a draw for Mr. Truman. Congress gave the people things it was quite sure they wanted, but stalled on those things about which there was doubt. Money was voted on a lavish scale, total appropriations passing the $46 billion mark, but the President failed to get more power to regulate the daily lives of the people or business.

Gas Security Regulation

LEGISLATION for Federal regulation of natural gas company securities will be given serious consideration at the next session of Congress. Renewed agitation for amendment to the Natural Gas Act grew out of a decision of the Federal Power Commission earlier this year in which the FPC majority held that it was unable to require competitive bidding on natural gas company securities in connection with the financing of construction for which an FPC certificate was granted. The opinion suggested that Congress ought to give the commission such powers.

A bill to give the FPC power over natural gas security issues was introduced on the last day of the recent session. It was a bill (S 2746) by Senator Johnson (Democrat, Texas) as an amendment to the Natural Gas Act. An earlier bill (HR 5306) on the same subject by Representative Crosser (Democrat, Ohio) had failed to make any progress in the House Committee on Interstate and Foreign Commerce. But Senator Johnson's bill is believed to have the backing of the administration. As such it is likely to receive prompt and careful attention in the Senate Interstate and Foreign Commerce Committee.

Johnson's bill would give the FPC full and continuous authority over natural gas security issues. This would include authority to impose or alter conditions for the issuance of such security. It would even alter the Holding Company Act.

Financial News and Comment

By OWEN ELY

Financing Utility Capital Requirements

THE general accounting committees of the American Gas Association and the Edison Electric Institute, with the aid of certain consultants and advisers, have prepared a 132-page brochure on "Financing Utility Capital Requirements." Since the huge construction program of the electric and gas utility companies is only about half completed, this résumé of background information, with statistical compilations on the character of financing and suggestions for future policies and methods, is of great interest at this time. For those who may not find time to study the report itself, a brief summary may be of interest. Figures presented in the report on construction programs are as shown in the table.

The electric and gas utilities must therefore continue to sell substantial amounts of securities through 1953 or later, unless the building program is curtailed.

In order to complete a well-balanced program, including adequate equity financing, "confidence in the industry, in the soundness of its capital structure, and its future prospects must be instilled in stockholders and potential investors . . . Stockholders should be reassured that earnings will not be diluted by the expansion program. Engineering advances in recent years in both the electric and gas utility industries, with resulting increased operating efficiencies, are among the items which can be stressed. The growing recognition of regulatory bodies that rates must be such as to attract new capital should be explained to new investors. Fears of government competition and of high operating costs must be allayed by the development of factual material."

THIS information can be disseminated in a variety of ways, the report

POSTWAR ELECTRIC AND GAS CONSTRUCTION EXPENDITURES, AND ESTIMATES FOR 1949-53
(In Millions of Dollars)

	Electric	*Gas*	*Total*
1945	—	—	$ 632
1946	—	—	1,040
1947	—	—	1,900
1948	—	—	2,680
1949	$2,050	$943	2,993
1950	1,830	871	2,701
1951	1,620	581	2,201
1952	1,630	375	2,005
1953	1,560	—	—

points out: (1) by advertising or publicity in local periodicals, national business and trade publications, news syndicates, radio and television outlets, etc.; (2) by getting better acquainted with investors, underwriters, and dealers—a novel experience for executives of companies formerly managed by holding companies. "Good investor relations do not just happen; they have to be achieved . . . and maintained by unremitting attention."

DIFFERENT approaches are required for institutional and individual investors. The former usually rely on their own staffs, or outside consultants, to supply them with detailed data. Individual investors, on the other hand, are widely scattered and require greater attention. In the cases of some companies they are largely customers, employees, and local residents. A number of mediums are necessary to build up a strong belief among these people that the stock of the utility is a good investment risk. Among these are the following:

(1) The annual stockholders' report "is the place where management can and should present its case," showing the company's contributions to the community or areas served. (2) Interim reports are also necessary for keeping stockholders, analysts, and investment bankers abreast of important developments. (3) Detailed information for financial and statistical agencies, whenever requested by them, as an aid in obtaining proper ratings for new securities. (4) Special brochures or reports at times of financing, giving more adequate information than is contained in the annual report or the registration statement. (5) The "picture book," movies, and slides for illustrating the plants and the territories served. (6) Well-timed meetings with groups representing commercial and investment bankers, institutional investors, investment counselors, security analysts and dealers, and representatives of the financial agencies and press. These programs should be followed up by continuing personal contacts between a responsible officer of the utility and key men among the groups listed. It has been fully proved that a large proportion of investors rely directly or indirectly on recommendations of commercial bankers, or security dealers.

NEW equity financing dilutes share earnings and also means a price concession in order to sell shares readily, hence earnings must be adequate to offset these two factors. Utility stocks, in general, sell about 25 per cent below good industrial stocks "at currently demanded dividend or earnings yields." To counteract this it would be very helpful if regulatory bodies would revise their ideas of allowable earnings to conform with current conditions, and recognize that rates are fixed for the future and not for the past. They should give more weight to anticipated plant investments and the earnings necessary to support the new securities. In some cases this would involve temporary abandonment of rigid adherence to various theories developed over a period of years with respect to the rate base and rate of return.

With regard to SEC regulations, competitive bidding has proved generally satisfactory for good-grade and high-grade bond issues of medium size. On lower-grade bonds negotiated sale or private sale is usually more advantageous, particularly if there are temporarily adverse circumstances; the underwriter must spend more time and effort on such issues, and is unlikely to do so unless he is sure of a commission. This is even more true for medium and lower-grade preferred and common stock issues since mid-1946. This situation has been recognized to some extent by the SEC, which has made exceptions to Rule U-50.

The joint committee feels, however, that the situation should be clarified by suspending Rule U-50 with respect to all electric and gas preferred and common stocks, the SEC continuing to pass on prices and spreads. Bond offerings up to $3,000,000 should also be exempt. (The present level is $1,000,000.) While mortgage bonds have fairly definite patterns with respect to sinking funds, maintenance and replacement funds, dividend

restrictions, and certain other features, debenture issues are usually "hand tailored," particularly where convertible. With respect to preferred stock issues, the point has been made in some quarters that the use of a sinking fund, by making the issue more acceptable to insurance company buyers, may permit sale of the stock at perhaps twenty-five base points lower than otherwise. The committee study does not seem to bear this out, and in fact preferred stocks issued since 1947 with sinking funds have been selling at lower prices than the straight preferred issues.

HEAVY Federal taxation of personal incomes has not merely restricted the sale of common stocks, but has shifted the investment preference of wealthier buyers to tax-exempt state bonds. Thus for a single person with an income of over $60,000 there is no difference in yields between New York state tax-exempt bonds, and an average common stock investment yielding 6.4 per cent before taxes. The middle income group, which two decades ago used to invest substantially in equities, is now more interested in insurance, pension plans, etc. Such funds are eventually channeled by institutions into priorities, resulting in a shortage of equity capital.

One form of tax relief for electric utilities which Congress might grant would be repeal of the Federal electric energy tax, which is discriminatory and expensive to administer.

The report includes a large amount of statistical material, the appendices analyzing in great detail the character of utility financing since 1941. The bibliography includes references to a number of articles which have appeared in the PUBLIC UTILITIES FORTNIGHTLY.

1949 Electric Utility Financing Better Balanced Than In 1948

ACCORDING to a record compiled by William M. Carpenter, economist of the Edison Electric Institute, new money financing by the electric light and power companies (see table, page 641) averaged a little over $100,000,000 a month in 1948 and about $118,000,000 monthly in 1949 through September. The proportions for different securities were as follows in the two periods:

	Calendar Year 1948	*Nine Mos. Of 1949*
Bonds and Debentures.	78%	67%
Preferred Stock	13	12
Common Stock	9	21
Total	100%	100%

The entire power and light industry (including municipal plants and rural co-ops) last year spent about $2,357,000,000 and the private power companies about $2 billion. The difference between this figure and the amount raised by the sale of securities reflects temporary or serial bank loans, depreciation and amortization cash, reinvested earnings, equity contributions by holding companies, reinvested earnings, etc.

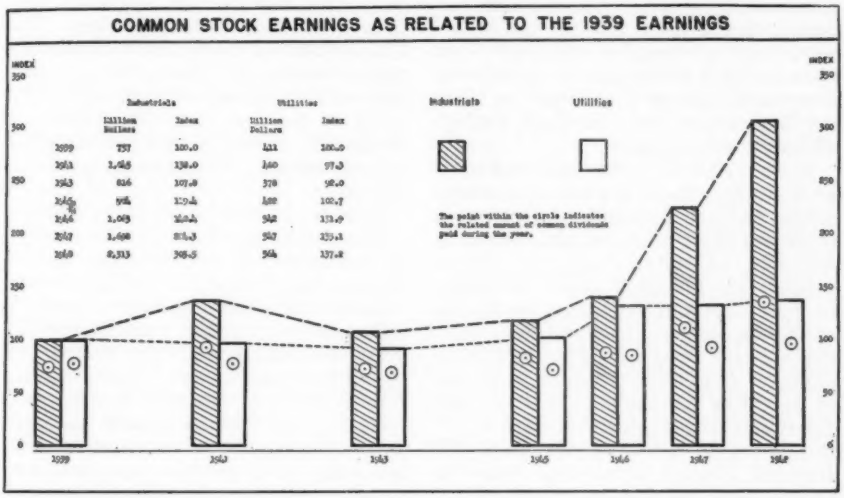
This year's financing is much better balanced than last year's—a rising trend of utility earnings, dividends, and stock prices has favored equity financing. The 21 per cent in common stock financing would probably exceed a 25 per cent equity ratio after allowance is made for reinvested earnings, etc. But it's up to the utilities to raise as much equity money as possible "while the going is good."

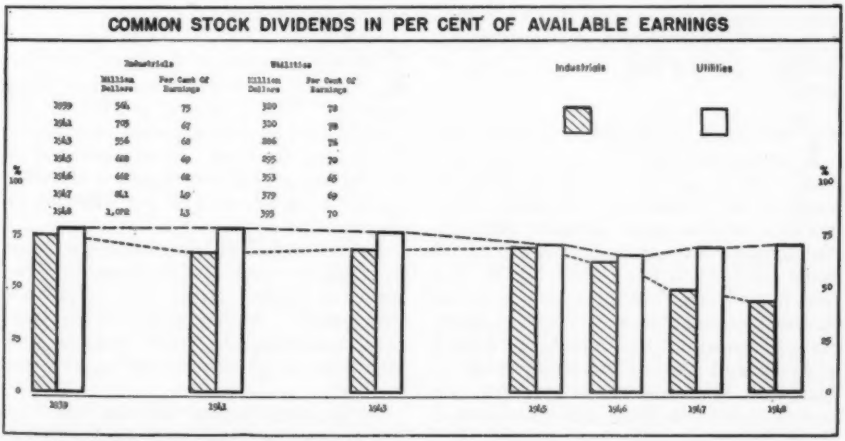
In the spring of 1946 the market became "swamped" with new utility offerings, but at that time the stock market was at the top of a 4-year bull market and there were many speculative industrial offerings competing with utility issues. The market now seems to be in a much healthier condition, and recently there also has been a considerable British demand for utility stocks on an investment basis.

History of Ebasco Services

A FEW years ago the SEC appeared to be exerting pressure against the utility service companies, but most of the larger service companies still survive,

EARNINGS AND DIVIDENDS OF CLASS A AND B ELECTRIC UTILITY COMPANIES COMPARED WITH A GROUP OF 152 INDUSTRIAL COMPANIES





From "Financing Utility Capital Requirements"

competing with other engineering and consulting firms which render similar services. Thus the Middle West Service organization is still active in Chicago. Commonwealth & Southern's service organization has split in two—northern and southern. Ebasco Services, once a department of Electric Bond and Share, has now grown so big that it has almost become "the tail wagging the dog." The history of this enterprise was described a few months ago by Vice President Harold Scaff before the New York Society of Security Analysts.

Back in 1905 the electric light and power industry was in a pioneering stage, serving only the bigger communities, with inefficient plants and services, and rates frequently as high as 15-20 cents per kilowatt hour. The small utility companies in those days had hard work to finance needed expansion or improvements. General Electric, along with other makers of electrical equipment, accepted securities of the utility companies in part payment for equipment, but found it hard to sell this paper to investors. In 1905 GE founded Electric Bond and Share to handle these securities and realize whatever was possible on them. This policy proved successful, and in 1925 GE distributed EB&S stock to its own stockholders, putting that company "on its own."

THE staff of EB&S originated the service idea in 1905, permitting small companies to get special work done by experts on a temporary fee basis. This was the beginning of Ebasco, although the company was not separately organized until 1935 when the Public Utility Act was passed. In 1942 the management of Ebasco decided to diversify by extending its services to utilities outside the EB&S systems and also to nonutility lines of business. With the war intervening, the initial growth in these directions was a little slow, and at the low point in 1944 business amounted to only $4,000,000, and that principally with affiliated clients. By 1949, however, it had reached $21,000,000, thus expanding more than fivefold. In 1943 the number of employees had dropped to 572, but this year it reached 1,600, not including some 450 or more employed under subcontract on design and drafting work.

The Ebasco staff is divided into three sections—engineering, financial, and operating. Engineering includes consulting, design and construction, appraisal, purchasing, traffic, and inspection. The financial section has these divisions: corporate finance, rates and prices, systems and methods, taxes, and insurance. The scope of the operating department includes sales and marketing, industrial relations, general consultation, and research.

Samples of Ebasco work for utilities have included the following: Preparation of reports and recommendations for the construction programs of 26 electric companies and 24 gas companies involving a billion dollars of new investment over the years 1946-52. Continuing analysis of the operating efficiency of plants with 1,700,000 kilowatt capacity. Starting and testing of 3,000,000-kilowatt capacity, and improving the performance of electric distributing systems, gas plants, etc. Consulting services for the northwest and southwest power pools and other interconnected systems.

EBASCO'S engineers designed over 3,000,000 kilowatts of new generating capacity. This is nearly a fifth of the total of the current expansion program of the private utilities. They pioneered in developing outside steam-power stations, saving as much as $10 per kilowatt in construction costs.

Latest technical developments have been applied over a wide range with respect to higher steam pressures and temperatures, higher transmission voltages, automatic electronic controls, and introduction of new manufactured gas methods.

In the construction field the company has helped to build over $325,000,000 electric generating capacity. Ebasco has also helped utilities to locate special contractors, assisted in checking bids, etc. Its purchasing department helped to buy $84,000,000 of equipment during the past

year, expedite factory production, etc. Appraisals of utility properties were furnished to utility managements, bank and insurance companies, and other investor groups. It also aided utility clients to prepare sales and revenue budgets, trained sales forces, directed promotional and public relations activities, etc. In the field of industrial relations it helped develop administrative and supervisory training, made job evaluations and wage and salary programs, arbitrated labor agreements, etc.

Ebasco developed financing plans for 28 utilities, worked on rate cases, appraisals, reorganization plans and mergers, settlement of original cost cases, etc. In connection with financing, the company prepares comprehensive annual or semiannual tabulations and analyses of utility security issues. It helped 19 utilities to obtain rate increases (about a million dollars apiece), forecast sales and earnings for 14 utilities, and devised special rate schedules for space heating, air conditioning, etc. Work has also been done for a number of utilities in analyzing rates, simplifying schedules, etc. And finally Ebasco has rendered services to a large number of utilities with respect to customer billing, Federal tax returns, property insurance problems, pension plans, and actuarial services.

The above does not, of course, cover the construction and service work for industrial companies, foreign governments, etc. While Ebasco's business is still predominantly in the utility field, it also renders services to nonutility businesses. Starting in 1942, its staff has worked for large and small clients in more than 80 different industries.

A recent Ebasco advertisement listing from A to Z some of the businesses and industries served is illustrative of the diversity already achieved. Ebasco's backlog of construction orders totals $233,000,000 at the present time.

The growth of Ebasco since 1942, when it began actively to expand its work with nonassociate clients in both the utility and industrial fields, is considered an outstanding accomplishment.

NEW MONEY FINANCING BY ELECTRIC UTILITIES
(Millions of Dollars)

Year 1948	*Bonds & Deb.*	*Preferred Stocks*	*Common Stocks*	*Total*
January	$ 88	$ 5	$ 17	$110
February	63	16	3	82
March	105	5	10	120
April	130	10	22	162
May	46	25	5	76
June	63	33	2	98
July	84	25	3	112
August	40	14	—	54
September	47	—	17	64
October	110	19	11	140
November	108	—	13	121
December	79	3	1	83
Totals	$963	$155	$104	$1,222
Year 1949				
January	$110	$ 2	$ 8	$119
February	95	2	—	97
March	60	6	21	88
April	112	29	49	191
May	43	43	48	134
June	193	17	33	243
July	64	7	44	114
August	26	11	12	49
September	9	11	6	26
Total 9 mos.	$712	$128	$221	$1,061

DIVIDEND-PAYING ELECTRIC UTILITY STOCKS

		10/19/49 Price About	Indicated Dividend Rate	Approx. Yield	Share Earnings Cur. Period	Share Earnings Prev. Period	Share Earnings % Increase	Price-Earn. Ratio	% of Rev. Avail. For Com. Stock
Revenues $50,000,000 or over									
B	Boston Edison	45	$2.80	6.2%	$2.90d	$2.75	5%	15.5	11%
S	Cincinnati G. & E.	31	1.40	4.5	3.14je	2.74	15	9.9	13
S	Cleveland Elec. Illum.	41	2.20	5.4	2.59je	2.65	D2	15.8	11
S	Commonwealth Edison	29	1.60	5.5	1.91je	1.81	5	15.2	10
S	Consol. Edison of N. Y.	27	1.60	5.9	2.37je	2.06	15	11.4	7
C	Consol. Gas of Balt.	68	3.60	5.3	4.44je*	4.43	—	15.3	8
S	Consumers Power	32	2.00	6.3	2.55ag*	2.74	D7	12.5	13
S	Detroit Edison	23	1.20	5.2	1.89s	1.41	34	12.2	8
C	Duke Power	80	4.00	5.0	7.31je	6.37	15	10.9	12
S	Northern States Power	10	.70	7.0	1.06ju	—	—	9.4	13
S	Pacific G. & E.	32	2.00	6.3	2.13je	2.42	D12	15.0	8
S	Penn Power & Light	20	1.20	6.0	2.04ag	2.20	D7	9.8	9
S	Philadelphia Elec.	24	1.20	5.0	1.66ag	1.58	5	14.5	12
S	Pub. Serv. E. & G.	25	1.60	6.4	2.38je	—	—	10.5	8
S	So. Calif. Edison	34	2.00	5.9	2.39je	1.79	34	14.2	7
S	Virginia Elec. & Power	19	1.20	6.3	1.67ag*	1.40*	19	11.4	9
S	Wisconsin Elec. Power	19	1.25	6.6	1.88je	1.65	14	10.1	8
	Averages			5.8%				12.6	
Revenues $25-$50,000,000									
S	Carolina P. & L.	30	$2.00	6.7%	$3.17s	$3.27	D3%	9.5	13%
O	Central Ill. P. S.	17	1.20	7.0	1.78je	1.78	—	9.6	15
O	Connecticut L. & P.	56	3.25	5.8	3.62ag	3.60	—	15.5	12
S	Dayton P. & L.	29	1.80	6.2	2.97je	2.24	33	9.8	13
S	Houston L. & P.	47	2.20	4.7	3.74s	3.69	2	12.6	16
S	Illinois Power	34	2.20	6.5	3.42ag	2.96	16	9.9	15
S	Louisville G. & E.	30	1.80	6.0	3.37ag	2.58	31	8.9	12
O	New Orleans Pub. Ser.	34	2.25	6.6	3.16ag	2.77	14	10.8	8
S	N. Y. State E. & G.	50	3.40	6.8	4.65s	3.96	17	10.8	8
O	Northern Ind. P. S.	18	1.20	6.7	2.34ju	2.05	14	7.7	11
S	Ohio Edison	31	2.00	6.5	2.97s	2.80	6	10.4	14
O	Ohio Public Serv.	16	1.12	7.0	1.51d	1.38	9	10.6	15
S	Potomac Elec. Power	15	.90	6.0	1.10je	1.05	5	13.6	11
S	Pub. Serv. of Colo.	44	2.60	5.9	4.68m	3.69	27	9.4	14
O	Pub. Serv. of Ind.	26	1.60	6.2	2.52ag	2.55	D1	10.3	17
O	Puget Sound P. & L.	13	.80	6.2	1.61ju	1.75	D8	8.1	11
O	Rochester G. & E.	31	2.24	7.2	2.48je	—	—	12.5	7
	Averages			6.4%				10.6	
Revenues $10-$25,000,000									
O	Atlantic City Elec.	19	$1.20	6.3%	$1.53ag	$1.36	13%	12.4	12%
S	Birmingham Elec.	11	—	—	.94ag	1.08	D13	11.7	4
O	Central Ariz. L. & P.	12	.80	6.7	1.25ag	1.29	D3	9.6	13
S	Central Hudson G. & E.	9	.52	5.8	.57s	.51	12	15.8	6
O	Central Ill. E. & G.	20	1.30	6.5	2.09je	2.57	D19	9.6	11
S	Central Illinois Lt.	34	2.20	6.5	2.99ag	2.85	5	11.4	14
O	Central Maine Power	16	1.20	7.5	1.70s	1.02	67	9.4	15
S	Columbus & S. Ohio El.	21	1.40	6.7	2.23je	2.06	8	9.4	13
O	Connecticut Power	33	2.25	6.8	1.87je	2.34	D20	17.6	11
S	Delaware P. & L.	21	1.20	5.7	1.88je	1.54	22	11.1	12
S	Florida Power Corp.	16	1.20	7.5	1.73je	1.36	27	9.2	11
S	Gulf States Util.	20	1.20	6.0	1.85ag	1.67	11	10.8	17
C	Hartford Elec. Light	46	2.75	6.0	2.65je	—	—	17.4	14
S	Idaho Power	36	1.80	5.0	2.56je	2.57	—	14.1	19
S	Indianapolis P. & L.	28	1.60	5.7	3.49je	2.66	31	8.0	14
O	Interstate Power	8	.60	7.5	1.00je	—	—	8.0	13
O	Iowa Pub. Ser.	17	1.00	5.9	1.87ju	1.36	38	9.1	9

	(Continued)	10/19/49 Price About	Indicated Dividend Rate	Approx. Yield	Share Earnings Cur. Period	Share Earnings Prev. Period	% Increase	Price-Earn. Ratio	% of Rev. Avail. For Com. Stock
O	Kansas Gas & Elec.	29	2.00	6.9	2.77ag	2.31	20	10.5	12
S	Kansas Power & Light	16	1.00	6.3	1.52je	1.19	28	10.5	14
O	Kentucky Utilities	13	.80	6.2	1.76ju	1.66	6	7.4	12
O	Minnesota P. & L.	28	2.20	7.9	3.12d	2.88	8	9.0	14
C	Mountain States Power	32	2.50	7.8	3.73je	5.02	D26	8.6	12
O	Oklahoma G. & E.	37	2.40	6.5	3.77je	3.66	3	9.8	14
O	Portland Gen. Elec.	23	1.80	7.8	2.12ag	1.73	23	10.8	14
O	Pub. Ser. of N. H.	24	1.80	7.5	1.78s	1.41	26	13.5	12
O	San Diego G. & E.	13	.80	6.2	.83je	1.00	D17	15.7	6
S	Scranton Elec.	14	1.00	7.1	1.06ag	1.18	D10	13.2	14
S	So. Carolina E. & G.	9	.60	6.7	1.30ag	.89	46	6.9	10
O	Southwestern Pub. Serv.	32	2.20	6.9	2.68ju	2.63	2	11.9	22
C	Tampa Electric	31	2.00	6.5	2.50ag	2.14	17	12.4	12
O	United Illum.	43	2.25	5.2	2.60d	2.56	2	16.5	16
C	Utah Power & Light	24	1.60	6.7	2.62ag	2.47	6	9.2	16
O	Western Mass. Cos.	32	2.00	6.3	2.30d	2.41	D5	13.9	12
O	Wisconsin P. & L.	15	1.12	7.5	1.39je	1.75	D21	10.8	11
	Averages			6.6%				11.3	
	Revenues $5-$10,000,000								
C	California Elec. Pr.	8	$ .60	7.5%	$ .76je	$ .71	7%	10.5	10%
O	Calif. Oregon Power	23	1.60	7.0	2.13ag	2.71	D21	10.8	17
O	Central Vermont P. S.	8	.68	8.5	.62s	.29	114	12.9	6
C	Community Pub. Ser.	31	2.00	6.5	4.08je	3.42	19	7.6	12
O	El Paso Electric	31	2.00	6.5	3.34ag	2.87	16	9.3	20
S	Empire Dist. Elec.	17	1.24	7.3	2.19s	2.38	D8	7.8	11
O	Gulf Public Service	11	.80	7.3	1.35ag	1.32	2	8.1	13
O	Iowa Southern Util.	16	1.20	7.5	2.52ag	1.51	67	6.3	8
O	Lawrence G. & E.	36	2.60	7.2	2.41d	2.48	D3	14.9	9
O	Lynn G. & E.	83	5.00	6.0	5.02d	5.87	D14	16.5	16
O	Madison Gas & Elec.	26	1.60	6.2	2.01je	1.84	—	12.9	12
O	Michigan Gas & Elec.	20	1.60	8.0	2.24je	1.99	13	8.9	9
O	Missouri Utilities	14	1.00	7.1	1.98je	1.92	3	7.1	12
O	Northwestern P. S.	11	.80	7.3	1.22je	1.24	D2	9.0	11
O	Otter Tail Power	19	1.50	7.9	1.62d	1.58	2	11.7	9
C	Penn Water & Power	37	2.00	5.4	4.81d	4.32	11	7.7	24
O	Public Ser. of New Mexico	17	1.00	5.9	1.74je	1.51	15	9.8	14
O	Rockland L. & P.	9	.60	6.7	.54d	.68	D21	16.7	12
O	Sioux City G. & E.	37	2.00	5.4	3.16ag	3.33	D5	11.7	10
O	Southern Ind. G. & E.	21	1.50	7.1	2.17ag	2.31	D6	9.7	15
O	Tide Water Power	8	.60	7.5	.96s	.89	8	8.3	7
O	Western Lt. & Tel.	25	2.00	8.0	2.31je	2.19	5	10.8	10
	Averages			7.0%				10.4	
	Revenues under $5,000,000								
O	Arizona Edison	17	$1.00	5.9%	$2.54je	$1.54	65%	6.7	8%
O	Arkansas Missouri P.	14	1.00	7.1	2.20je	1.89	16	6.4	14
O	Bangor Hydro Elec.	24	1.60	6.7	2.39je	2.86	D16	10.0	15
O	Beverley G. & E.	35	2.40	6.9	2.10d	2.19	D4	16.7	6
O	Black Hills P. & L.	16	1.20	7.5	1.83ju	2.30	D20	8.7	13
O	Calif. Pacific Util.	29	2.40	8.3	3.38ag	4.44	D24	8.6	9
O	Central Louisiana El.	28	1.80	6.4	3.77s	2.49	51	7.4	18
O	Central Ohio L. & P.	26	1.60	6.2	3.21je	2.84	13	8.1	10
O	Citizens Utilities	10	.70&Stk	7.0	1.94je	1.44	35	5.2	12
O	Colorado Central P.	25	1.80	7.2	2.43je	2.76	D12	10.3	11
O	Concord Electric	35	2.40	6.9	2.17d	2.30	D6	16.1	11
O	Derby G. & E.	20	1.40	7.0	1.25d	1.47	D15	16.0	10
O	East Coast Electric	17	1.20	7.1	1.44je	1.85	D22	11.8	14
O	Fall River Elec. Lt.	52	4.00	7.7	3.55d	3.32	7	14.6	16
O	Fitchburg G. & E.	41	2.75	6.7	2.68d	2.85	D6	15.3	11
O	Frontier Power	4½	.20	4.4	.84d	1.14	D26	5.6	10
O	Haverhill Elec.	25	1.00	4.0	1.10d	1.48	D26	22.7	6

	(Continued)	10/19/49 Price About	Indicated Dividend Rate	Approx. Yield	Share Earnings: Cur. Period	Prev. Period	% Increase	Price-Earn. Ratio	% of Rev. Avail. For Com. Stock
O	Lake Superior Dist. P.	23	1.40	6.1	1.95je	2.42	D19	11.8	5
O	Lowell Elec. Lt.	39	3.00	7.7	2.73je	—	—	14.3	9
C	Maine Public Service	13	1.00	7.7	1.82ag	.76	139	7.1	9
O	Michigan Public Ser.	20	1.40	7.0	2.02je	1.56	29	9.9	8
O	Missouri Edison	8	.70	8.8	.89je	1.00	D11	9.0	9
C	Missouri Public Ser.	32	1.60	5.0	3.92d	4.21	D7	8.2	13
O	Newport Elec.	24	1.80	7.5	2.45my	2.66	D8	9.8	11
O	Sierra Pac. Power	23	1.60	7.0	1.98ag	2.05	D3	11.6	13
O	Southern Colo. Pr.	10	.70	7.0	1.20my	1.21	—	8.3	14
O	Southwestern El. Ser.	11	.80	7.3	1.36my	1.18	15	8.1	14
O	Tucson Gas, E. L. & P.	19	1.20	6.3	2.35s	1.65	42	8.1	16
	Averages			6.8%				10.6	
	Averages, five groups			6.6%				11.1	
	Canadian Companies								
C	Brazilian Trac. L. & P. ...	19	$2.00	10.5%	$3.85d	$3.69	4%	4.9	—
C	Gatineau Power	17	1.30	7.6	1.26d	1.63	D23	13.5	—
C	Quebec Power	18	1.00	5.6	1.14d	1.21	D6	15.8	—
C	Shawinigan Power	25	1.20	4.8	1.58d	1.63	D3	15.8	—
C	Winnipeg Electric	35	1.40	4.0	1.81d	1.96	D8	19.3	—
	Integrated Holding Companies								
S	American Gas & Elec.	46	$3.00	6.5%	$4.84s	$4.27	13%	9.5	—
S	Central & South West	13	.90	6.9	1.41je	1.26	12	9.2	—
S	Middle South Util.	17	1.10	6.5	1.90ag	—	—	8.9	—
S	New England El. System ...	10	.80	8.0	1.22m	—	—	8.2	—
O	New England G. & E.	13	.90	6.9	1.54ag	1.32	17	8.4	—
S	Southern Co.	11	.80	7.3	1.24s	.85	46	8.9	—
S	West Penn Elec.	24	1.80	7.5	3.88je	3.25	19	6.2	—
	Averages			7.1%				8.5	
	Other Electric Holding Companies								
S	General Pub. Util.	15	$1.00	6.7%	$1.84agPF	—	—	8.2	—
S	North American	17	1.00	5.9	1.78jePF	—	—	9.6	—
C	Philadelphia Co.	15	.70	4.7	1.12je	.68	65	13.4	—
S	United Gas Imp.	25	1.30	5.2	1.82je	2.14	D15	13.7	—
O	West Penn Power	34	2.00	5.9	2.48je	2.33	6	13.7	—

B—Boston Exchange. C—Curb Exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. WD—When Delivered. *Based on average number of shares outstanding. †—While these stocks are listed on the Curb, Canadian prices are used. a—April. ag—August. d—December. f—February. j—January. m—March. my—May. je—June. ju—July. s—September. PF—*Pro forma.*

CURRENT COST-OF-FINANCING YARDSTICKS

Recent Yields on Various Types of Utility Securities

	Recent	1949 Range High	1949 Range Low	1948 Range High	1948 Range Low
*Government Bonds—Tax Exempt	1.48%b	1.82%	1.43%	2.08%	1.68%
—Taxable	2.18b	2.40	2.18	2.44	2.38
*Utility Bonds—Aaa	2.59a	2.77	2.59	2.90	2.72
—Aa	2.68a	2.84	2.68	3.01	2.82
—A	2.83a	3.02	2.82	3.09	2.92
—Baa	3.18a	3.45	3.18	3.49	3.26
Utility Pref. Stocks—High grade	3.87a	4.02	3.80	4.20	3.88
—Medium grade ...	4.30a	4.57	4.29	4.65	4.44
Utility Common Stocks—High grade ...	5.76b	6.26	5.72	6.41	5.48

*Long Term. a—Moody Index. b—Standard & Poor's Index.

What Others Think

American Gas Convention Proceedings

THREE thousand gas utility men descended on Chicago on October 17th to 20th and "The '49 Roundup" was on. The thirty-first annual convention of the American Gas Association lived up to its expectations of being a memorable one with a well-rounded program highlighted by leaders of the gas industry.

Robert Hendee, retiring president of the American Gas Association and president of the Colorado Interstate Gas Company, Colorado Springs, Colorado, led off the roster of speakers with a tribute to the accomplishments of the industry in recent years. He pointed out that under present construction and supply schedules the industry expects to reach a capital figure of $10 billion within the next five years. On the growth of the natural gas branch of the industry, the speaker had this to say:

> The spectacular growth of the natural gas branch of the industry has attracted national attention. Last year, the Federal Power Commission authorized construction of 8,500 miles of pipeline, bringing the total of natural gas pipelines in the United States to 251,330 miles. Applications are now pending before FPC for an additional 14,600 miles of natural gas lines.
>
> Largest single authorization was for construction of an 1,840-mile pipeline from Texas to New York city at an estimated cost of $189,000,000. This line will supply 340,000,000 cubic feet of natural gas daily to gas companies in New York, New Jersey, and Pennsylvania. Plans are now well advanced to build natural gas pipelines to New England. On the other side of the country, the Pacific Northwest is looking forward to receiving natural gas from Canadian fields. Completing the expansion picture, is the fact that practically all existing natural gas pipe-line systems are being expanded to take care of additional load.

THE ever-present question of natural gas reserves was answered with the following:

> With natural gas advancing to all these far-flung areas, the question of reserves assumes paramount importance. Here again the picture is bright. The reserves committee of the AGA and the American Petroleum Institute estimated proved natural gas reserves in the United States on December 31, 1948, were 173.87 trillion cubic feet. This is a gain of almost 8 trillion cubic feet above the estimates of a year ago, despite record withdrawals to supply the unprecedented demand. It is significant that reserves have advanced more than 700 per cent since 1925 and more than 230 per cent in the past ten years.

Mr. Hendee concluded his remarks with a tribute to the members of the gas association, particularly the 2,000 committee members, and its officers who contribute their time, energy, and talents for the good of the industry. He praised the industry as young in spirit and rich in resources with a prosperous future ahead of it.

THE newly elected president of the American Gas Association, Hugh H. Cuthrell, in a talk entitled "Scanning the Planning for 1950," emphasized the importance of well-planned sales operations as a necessity for a continued growth of the industry. This planning, according to the speaker, should recognize the economies in production and distribution effected by competitor indus-

tries as an incentive to stress savings and service to the gas consumer during the coming year.

The gas utility executive accentuated four challenges and opportunities in the industry which deserve immediate attention. He discussed these as follows:

> The first is technological. For those of us in manufactured gas areas who are anticipating the introduction of natural gas, there will be the challenge of changes in production, distribution, and utilization. Many of us have committees working on special projects in these fields right now. . . .
>
> A second great challenge that comes to all of us is in the field of public relations. We have been plagued so long by apologizing for rising costs, rate increases, gas shortages, and inadequate distribution facilities that many customers have developed a negative attitude toward the industry. We must go back to selling gas as a modern desirable fuel; we must see that gas appliances are in the picture whenever a customer is making up his mind to buy. We have a tremendous dramatic advantage in public relations with the present-day expansion of this industry. Let's take advantage of it now.
>
> A third great challenge comes to us in our financial operations. More and more with every year this industry is moving into a different league investmentwise—and we've got to grow up to it. If we are alert and if we plan well, we can benefit greatly from this fiscal "changeover." Here is a chance we've been waiting for. We will never get a better one! The fiscal decisions made now are important to the sales picture in 1950 and 1955. Weigh them carefully for long-range effects. . . .
>
> A fourth great challenge lies in market development. Don't work in the dark. Get all of the facts you can about the market you serve and bring some imaginative planning to opening up new markets. If you listen just to the statisticians who forecast the future, you may miss some opportunities they have forgotten! It's their job to predict; it's your job to sell! The gas industry needs more analytical market studies. To give one example, it must take a long look at all of the possibilities of gas heating. Studies of population growth show us that such growth is slowing down in the cities. Rural and suburban areas, on the other hand, are experiencing rapid growth. Gas utilities should think twice before they say it is uneconomic to expand new lines to reach new and sparsely settled markets.

Mr. Cuthrell reaffirmed the industry's belief in a system of economic opportunity and urged the industry to reinterest youth in the wholesome advantages of that system with an interchange of ideas between the older and younger members of the gas industry. Only in this way can the young people of the industry realize the good future that lies ahead for them.

"INDUSTRIAL and Commercial Gas Sales—the Balance Wheel of the Natural Gas Industry," was the subject of remarks made by D. A. Hulcy, newly elected first vice president of the American Gas Association, and president of the Lone Star Gas Company, Dallas, Texas. Mr. Hulcy outlined the problems which the industry faces in the industrial and private consumer fields. He discussed the competitive character of the industrial business, and the load aspects of the private consumer space-heating business.

On the supply problem the speaker had this to say:

> Proved natural gas reserves are at an all-time high, and at December 13, 1948, amounted to 174 trillion cubic feet, equal to a 29-year supply based on 1948 production. In spite of increased annual production we have consistently added to the proved supply, and I am confident this condition will continue for several years to come.

In conclusion Mr. Hulcy emphasized the fact that industrial sales are of as great importance to every gas industry and are worthy of the same effort which is being given to the kitchen load.

"YOU MAY SEE MR. WILLOUGHY NOW!"

The confused picture of overlapping regulation in the gas industry was ably presented by Harry M. Miller, member of the public utilities commission of Ohio, and president of the National Association of Railroad and Utilities Commissioners. Mr. Miller stated that the regulatory question which remains unsettled is: "In which division of government, the states or the Congress, shall the responsibility of regulation be vested?" According to the speaker the sound answer to the question is to be found in the experience of our country and in the character of the situation to be regulated. He pointed out that the optimism experienced by state regulatory authorities, because of the provisions of the Federal Power Act of 1935 protecting state jurisdiction, has since been dimmed with increasing encroachment of the Federal Power Commission into the fields of state regulation.

On the closing day of the convention the currently prevalent equity capital question was discussed in a talk by Emil Schram, president, New York Stock Exchange. Mr. Schram asserted that the problem of the shortage of venture capital could well be solved by the revision of the Federal tax structure, thereby creating investment incentive, and not by the government's continued resorting to Federal lending agencies such as the Reconstruction Finance Corporation to deal with tight financial situations in industries which cannot get capital elsewhere. He cited the fact that there was no dearth of savings and no immediate prospects of a depression economy.

Many other interesting phases of the business were discussed in both the general and committee sessions. The housewife came in for her share of consideration in talks by Myrna Johnston, associate editor, and director of foods and equipment department, *Better Homes and Gardens* magazine, and Esther Latzke, director, consumer service department, Armour & Company, Chicago. Commercial kitchens, safety, gas-heating, and air-conditioning problems, plus those of accounting, depreciation, and technical and chemical developments, occupied a good part of the convention agenda.

American Transit Meeting

THE American Transit Association —the oldest trade association in the United States (1883), held its sixty-eighth annual convention in Atlantic City on October 2nd to 6th, 1949. Morris Edwards, president of the Cincinnati Street Railway Company, was elected the new president of the American Transit Association to succeed Warren R. Pollard, president of the Virginia Transit Company.

The serious financial problem faced by the transit industry as a whole, was featured in the general discussions. Operational industry problems received attention through papers presented on such subjects as public relations, statistical methods in fare studies, trolley coach maintenance, communications in transit, the regulation of transit, and other related subjects.

The Wall Street Journal of October 11th presented a comprehensive review of the transit financial problem and methods being employed around the country to remedy it. Morris Edwards, the new president of the ATA, emphasized the general nature of the financial problem in these words: "There is not a major city in the nation in which the transit companies are not in some degree of financial difficulty."

A move to counteract the low earning situation is found in Harrisburg, Pennsylvania, where Harley L. Swift, president and general manager of the Harrisburg Railway Company, has sold people on the benefits of going downtown by bus and leaving the family auto at home. The result is a definite profit and dividend payments to the stockholders. Other companies are following suit, as exemplified by the case of the Kansas City Public Service Company where fares are being reduced on short haulings during the morning and evening rush hours. Powell C. Groner, president of the Kansas City line, declared that any substantial pick-up in off-peak travel would be all profit to the company, largely because bus drivers are paid for the period between the morning and evening rush hours whether they work or not.

LOWER fares for off-peak riding also are being tried by the Virginia Transit Company in Richmond, headed by Warren R. Pollard. A novel "frugaline" service which runs at half fare within the city's shopping area is paying off in business pickup, one of the few reported by the transit industry. The Richmond system is tying in its promotion in coöperation with department stores, which run slogans such as "It's smart to travel by bus" in their advertisements.

A nation-wide sales campaign to tell the transit story to the riding public, the regulatory authorities, and the Federal and local authorities, is urged by President Alfred J. Lundberg of the Key System Transit Lines in Oakland, California.

Industry is becoming increasingly aware of the fact that fare increases alone will not solve the problem, because of the danger of reaching a point of diminishing return. Selling the public on the convenience of transit travel and the use of modern equipment is thought by some to be the proper answer to the number one industry question of "What shall we do?"

Atomic Energy Industry Committee

THE possibility of future private utility use of atomic energy received recognition in the recent action by the Atomic Energy Commission in appointing a 3-man temporary advisory committee to recommend ways to establish continuing coöperation between the electric power industry and the Atomic Energy Commission. The committee will conduct a study of the commission's reactor program with a view to identifying areas, or potential areas, of mutual interest to the electric power industry and the commission, and make recommendations for bringing out a continuing program of coöperation.

The members of the committee will be three men of long and distinguished records of public service in the electric power field: Philip Sporn, chairman of the committee, president of the American Gas & Electric Company and the American Gas & Electric Service Corporation; Edward W. Morehouse, vice president of the General Public Utilities Corporation, New York; and Walton Seymour, director, division of power in the Secretary's office, U. S. Department of the Interior.

In commenting on the establishment of the new committee, Chairman David E. Lilienthal of the AEC said:

> While we have long recognized the importance of closer coöperation with those industrial interests not under contract to the commission, the need was highlighted in last winter's report by an industrial advisory group headed by James W. Parker. We have given a great deal of thought to this problem and now feel it is time to explore more intensively the ways and means by which closer coöperation between the commission and the electric power industry can be achieved.

AEC staff assistance will be rendered whenever necessary and the committee members will work within the security framework of the commission. The terms of reference outlining the scope of committee activity state:

> It is hoped that a program may be devised for contacts between the electric power industry and the commission which will give to appropriate representative groups and technicians in the industry a current understanding of the problems involved in the commission's nuclear reactor development work, thus enabling the industry to participate in properly defined areas of that work and to utilize its specialized technological resources to contribute to the solution of problems in this field for the mutual advantage of the commission, the power industry, and the general public. It is also hoped that through this program it will be possible to identify declassified and further declassifiable technical information regarding reactor development which may be useful to the industry as a whole.

The procedure of the committee members' activities will consist mainly of informing themselves as fully as feasible regarding the Atomic Energy Act of 1946 and the AEC and government policies and procedures which establish the frame of operation. A report of the committee's findings was expected to be submitted by March 31, 1950.

—D. T. B.

EEI Chief Speaks Out at Tenth Anniversary Conference

DURING the week of October 21st, the electric industry celebrated the seventieth anniversary of the invention of the electric light. An important event in this industry-wide program was a press conference held in New York city

by Elmer L. Lindseth, president, Cleveland Electric Illuminating Company, and president, Edison Electric Institute. Mr. Lindseth appropriately entitled his statement, "Having Faith—and Going Forward," in answer to Thomas Edison's last charge to the industry at its convention at Atlantic City in 1931 when he said, "Have faith—go forward."

The electric utility executive recited the accomplishments of the industry in the fields of sales, finance, construction, and reserve capacity. He pointed out the economic advances made in bringing low-cost electricity to the American home as a result of technological improvement.

In the field of rural electrification, the speaker pointed out that complete final electrification is almost a reality. By New Year's Day 85 per cent of all farms will have electric service and it will be available to an additional 6 per cent. In the face of this situation he criticized a Rural Electrification Administration practice of erecting power plants where power already is available at rates below what it will cost these REA plants to generate power. REA transmission line duplication was also emphasized. He recognized these practices as constituting economic waste by piling a needless and unjust burden on our taxpayers. He pointed out that latest REA reports reveal that the average price that companies charge coöperatives is 9.5 mills per kilowatt hour, while the average price the REA generating stations charge the coöperatives they serve is 13.6 mills—43 per cent more than the private companies charge.

MR. LINDSETH took exception to the activities of government in the power industry in the following statement:

> It is plainly contrary to sound principles of economics and democratic government that taxes collected from our self-supporting electric companies be used to help support competing, government-owned electric systems which are largely tax-exempt; and which, in addition, are subsidized out of taxes collected from the public. . . .
>
> The Federal government today is taking as taxes over 11 per cent of the total revenues which the electric companies receive from the sale of electricity. These are Federal taxes only.
>
> But the government power systems pay no Federal taxes.
>
> This differential of 11 per cent shows there is no magic in the government's claim that it can produce and sell power at lower prices than the electric companies.
>
> Nevertheless, this claim—repeated over and over by government power propagandists—results in unjust, adverse criticism of the companies' rates.

The EEI president closed his remarks with a statement of principles for which the electric utility business stands. He pointed out that the business was fundamentally a service business and that the industry has demonstrated that it can do a superior job of supplying complete electric service to the consumers. He stated that the industry's position on rural electrification is one of not objecting to Federal subsidy of rural distribution lines—as a national policy—where service is required. But that it does object to (1) duplicating existing facilities and (2) erecting competing plants.

As to government functions in river developments, the speaker stated that there is a need and a place for government functions in respect to river development for water supply, flood prevention, reclamation and navigation, and the generation of electricity as a by-product where this is a sound operation. The industry stands opposed to government activities in respect to transmission, distribution, and sale of electricity and discrimination against the customers of utility companies.

—D. T. B.

The March of Events

In General

Power Plans Denounced

DR. OLAUS J. MURIE of Moose, Wyoming, told the Society of American Foresters meeting in Seattle, Washington, last month, that "over-ambitious" irrigation, flood-control, and water-power projects are menacing the country's national forest and national park areas.

Murie, a director of the Wilderness Society, asserted that "tremendous forces are entrenched against conservation."

The individual threats have coalesced so as to assume the proportions of a military campaign, he declared.

Conservation groups, Murie said, are campaigning for a change in procedure so that proposed huge dam building programs will not be left in the hands of a single bureau "or, even worse, in the hands of two rival bureaus."

Seeks Phone Rate Case Unity

NATION-WIDE coöperation among the states in handling telephone rate increase cases was proposed at the annual convention of the National Association of Attorneys General meeting in annual convention at St. Paul.

Attorney General J. A. A. Burnquist of Minnesota, president of the national organization, said such coöperation, to be sought through formation of a nation-wide committee, is "essential in order to protect the interests of the public."

Pointing out that rate increases totaling $260,000,000 have been granted the American Telephone and Telegraph Company and its subsidiaries since the end of World War II, Burnquist declared such a committee could serve as a "clearing house for information which might be of mutual assistance."

California

Higher Rates Sought

FOR the first time in twenty-nine years a system-wide increase of electric rates was sought last month by the Pacific Gas and Electric Company in an application filed with the state public utilities commission. Although the increase, if granted, will amount to a total of $8,900,000, the average household bill will increase less than one cent a day, the company said.

The company stated that operating expenses have increased during recent years to a point seriously out of line with rates, which have been reduced frequently during more than a quarter of a century. The company pointed out that it is imperative that earnings be increased in order to provide an adequate return on the company's investment in physical properties.

The company claims it now is realizing a return of 4.41 per cent on its electric investment. The interim boost would give the company a return estimated at 4.9 per cent.

Preferential Rate Lost

BAKERSFIELD lost its preferential domestic gas rate last month, despite protests by the city council against a Pacific Gas and Electric rate increase.

Since 1910 Bakersfield consumers have enjoyed a natural gas rate lower than the rest of the state because of its proximity to the state's largest natural gas fields.

A state public utilities commission decision granted the gas company a Bakersfield rate equal to that in the rest of central and northern California. The increase will boost the average consumer's bill about 38 cents a month, commission experts said.

Connecticut

State Power Projects Scored

CARROLL B. HUNTRESS, chairman of the National St. Lawrence Project Conference, last month called for defeat of the Federal government's water-power program for New England. In a speech to the Norwich Rotary club, he said it would be "a good idea" to suggest to the regional meeting of the Democratic party in Boston, November 20th, that the government reduce its expenditures rather than look for "more ways to spend."

Discussion of the government's New England water-power development program is scheduled for the Boston meeting, Huntress said. He said tentative plans of government agencies call for four hydroelectric plants in the state of Connecticut.

In addition, he said, legislation is pending in Congress for more Army Engineer and Federal Power Commission surveys of New England "to thus extend the groundwork for Federal development."

District of Columbia

New PEPCO Plant Opened

WITH a luncheon celebration on October 7th, attended by more than 250 guests, including prominent citizens from the District of Columbia, Maryland, and Virginia, the Potomac Electric Power Company signalized the dedication of its new Potomac river generating station near Alexandria, Virginia, to public service in the greater Washington area. A tour of inspection followed the luncheon. All phases of the operations of the first 80,000-kilowatt generating unit were viewed and explained to the visitors.

At the luncheon, PEPCO's president, Alfred G. Neal, stressed the rapid growth of Washington during the past fifty years. It was in 1906 that the company's Benning plant was placed into service. In 1932 the Buzzard Point plant —the second large plant unit—was dedicated. Now the new Potomac plant has become necessary to handle the Washington area load.

Mr. Neal pointed out that in seven years the increase and demand amount to nearly 50 per cent. Referring to increase in construction costs, he observed that the Potomac plant costs 85 per cent more per pound unit than the Buzzard Point plant construction in 1932.

Illinois

Asks Rate Boost for Big Industries

PEOPLES GAS LIGHT & COKE COMPANY disclosed recently it had filed a request with the Illinois Commerce Commission for authority to increase rates on gas sold to about 500 Chicago industrial and commercial customers by an over-all 30 per cent. The increases, to

affect interruptible and off-peak service, would add an estimated $1,800,000 a year, before Federal income taxes, to the utility's revenues.

The customers whose rates would be raised include eight large industrial users in the interruptible category. Their service can be curtailed to supply other users. The others are in the off-peak class.

The company said the new off-peak rate, if approved, would provide the following charges: For 100 therms or less the utility would charge a flat minimum of $10 a month. For the next 200 the charge would be 6 cents a therm and the following 9,700 would be sold at 4 cents a therm. The next 65,000 therms would be 2.6 cents each, and after that 2.5 cents.

Dealers Hit REA Competition

LEGISLATION to prohibit the Rural Electrification Administration from lending money to coöperatives which compete with local merchants in the sale and servicing of electrical appliances was proposed recently by Joseph T. Meek, executive secretary of the Illinois Federation of Retail Associations.

Mr. Meek wrote to Representative Leslie C. Arends, Republican of Illinois, who was asked to get the views of Representative Wright Patman, Democrat of Texas, chairman of the House Committee on Small Business.

He said merchants "are pretty sore about the government lending their money, as taxpayers, to local coöperatives for the purpose of buying appliances to sell in direct competition with them, the taxpayers."

"These coöperatives are really drunk with their own power," Mr. Meek said, in predicting failure of an effort to get the Southeastern Illinois Electric Coöperative at Harrisburg to work with merchants in that area.

Kentucky

Gas to Compete with REA

PLANS for all-out competition with REA coöperatives were disclosed recently by the bottled gas industry of Kentucky. Speakers at a meeting of 200 members of the Kentucky Liquefied Petroleum Gas Association at Louisville urged a vigorous sales campaign. They condemned "propaganda" against bottled gas on the part of "competitors."

It costs about half as much to heat water, cook, and refrigerate with bottled gas as with electricity, it was stated.

"REA authorities realize they cannot pay the costs by lighting alone. They are advocating electric water heaters, electric ranges, and refrigeration," it was said. "Gas can do the job cheaper and better, and liquefied gas people must tell their customers what the gas will do."

E. Carl Sorby, vice president of the George D. Roper Corporation, Rockford, Illinois, described the bottled gas industry as one of the fastest-growing in the world.

Massachusetts

Holds Power Hearing

PRACTICALLY all the hydroelectric power that can be developed economically in Massachusetts already has been developed, engineers representing the Army, the Public Health Department, and the State Planning Board said recently.

The engineers testified at a hearing conducted by the legislative committee on power and light, sitting as a recess commission to study the possibility of further development of Massachusetts rivers and streams for production of hydroelectric power.

Wesley F. Restall of the New England

division, Army Engineers, said that if the state's rivers were developed any further to produce power, large areas would have to be flooded. He gave it as his opinion that the amount of power which could be developed profitably was "insignificant."

C. Girard Davidson, Assistant Secretary of the Interior, said recently that New England had higher power rates and lower production than the national average because it has failed to use its water power. He said that the "underdeveloped power potential of New England is over 3,000,000 kilowatts" and added that the area has lagged behind in the development of electric power that could be achieved quickly.

In a telegram to Chairman James H. Vahey of the Democratic state legislative committee, Davidson said he did not know whether the reason was due to failure to understand the gains possible through Federal river development or "whether it is due to opposition from groups which profit from unduly high power rates."

Davidson's telegram was in response to statements that practically all the hydroelectric power that can be produced in Massachusetts already has been developed.

The Assistant Secretary said that was false. He said there were seven Federal reservoir projects already built in New England with a power potential of 48,000 kilowatts, "but not one of the power installations in these projects has ever been authorized."

He said that federally constructed multiple-purpose projects proved the most economical means of developing a river. The benefits of these projects are so great, he said, that "the people of New England owe it to themselves to study fully their hydroelectric power potential and to try to get the benefits of the 3,000,000 possible kilowatts of electric power that now flow uselessly to the sea."

Michigan

Court Upholds Phone Rate Reduction

A 1945 Michigan Public Service Commission order reducing Michigan Bell Telephone Company rates an estimated $3,500,000 annually was upheld last month in Ingham County Circuit Court.

The order had the effect of requiring the company to release $10,084,000 to subscribers. The money has been impounded under a court order since the rate reduction order.

However, the company pointed out that the impounded money has been reduced by taxes and that the full amount might not be returned. In addition, the refunds would only be made to customers in 43 of the company's exchanges where the reductions originally were ordered.

Circuit Judge Marvin J. Salmon, winding up a 3-year appeal of the commission order, ruled that the company had not shown that the reduction was unreasonable and unlawful. In the meantime the commission has granted the company two rate increases.

Minnesota

Agree on Transit Increase

THE state railroad and warehouse commission majority was recently reported to have agreed on the following streetcar rates: a straight 12-cent cash fare; three tokens for 35 cents; the proposed reduced student rate to be delayed for further consideration.

Commission members were said to have refused to say whether or not this was the substance of the agreement. It was understood Commissioners N. J.

Holmberg, chairman of the commission, and Leonard Lindquist have agreed upon the decision in the application of the streetcar companies of Minneapolis and St. Paul for an increase over the present 11-cent rate. Commissioner Clifford C. Peterson already had "dissented" from any increase. In a recent statement he declared he wanted no increase but a reduction to 10 cents in the rate.

Oklahoma

Commission Denies Application

THE state corporation commission last month denied the application of Southwestern Bell Telephone Company for supersedeas bond to enable it to put desired exchange rates into effect pending an appeal to the state supreme court.

Attorney for the company said an appeal would be taken to the supreme court to ask for the supersedeas bond and the higher rates sought by the company.

Reford Bond, chairman, said the commission had previously denied supersedeas bond upon two occasions in the same proceedings, and the application should be denied for the commission to be consistent.

The commission granted rate increases to allow the company $5,750,000 a year additional revenue on basis of 5.25 per cent return. The company accepted the part of the order dealing with toll rates, but was dissatisfied with the rates to telephone users. It had sought a net increase in revenue of $7,579,869 on the basis of a 7 per cent return on investment.

Pennsylvania

Phone Rates Increased

RATES for telephone service in Pennsylvania were increased $17,964,000 a year, effective October 21st. The state public utility commission last month issued an order granting the Pennsylvania Bell Telephone Company the increase. The company had asked for $25,705,000 to meet mounting costs.

Affected by the boost were about 360,000 telephone subscribers in Pittsburgh and 465,000 in Allegheny county. Mayor David L. Lawrence of Pittsburgh announced he would appeal the order to the state superior court.

Toll charges for long-distance calls remained at the present level. The commission's order, handed down after months of hearings and deliberation, was unanimous. The increase finally approved is slightly more than some members of the commission's technical staff thought the company should get.

W. D. Gillen, president of Bell, said the increase "falls short" of the company's requirements.

Utility Granted Rate Rise

THE Pennsylvania Public Utility Commission recently authorized the Pennsylvania Power & Light Company to increase its rates an average of 4.4 per cent, effective October 24th. The increase will add an estimated $2,126,000 annually to the revenues of the company, which has about 500,000 customers in 25 eastern Pennsylvania counties. Cities involved include Williamsport, Wilkes-Barre, Harrisburg, Bethlehem, and Allentown.

The Federal Power Commission recently reported that those cities were paying, before the increase, the fifth highest rate in the nation for cities of more than 50,000 population.

The company estimated that the bill for average consumers would increase from 10 cents to 26 cents a month.

Transit Rate Increase Approved

THE state public utility commission last month approved a $174,656 a

year rate increase for the Reading Street Railway Company, furnishing bus and trolley service in Reading and Lebanon. The commission said a study of the company's operations showed the increase would not produce "an excessive return."

The rate raise boosts the basic cash bus fare in Reading and vicinity from 8 to 9 cents, and the token rate in Lebanon from 7½ to 8½ cents. It also hikes the cost of a single zone cash trolley fare on the utility's Reading-Mohnton street railway line from 8 to 9 cents. The through fare between Reading and Mohnton remains unchanged at 16 cents.

The base bus token rate on the Lebanon division will be three for 25 cents instead of four for 30 cents. A 10-cent cash fare remains unchanged.

The company said the increased revenues were needed to meet higher labor and material costs.

South Carolina

Hits Private Power Firms

SPEAKING before a Charleston civic club last month, State Senator Richard Jefferies, general manager of the Santee-Cooper Authority, blasted private power interests as "fantastic," and declared there was nothing socialist about his big South Carolina public power project.

He criticized privately owned utilities sharply for what he termed "monopolistic practices," in controlling power outlets in certain areas and deliberately shutting out competition.

"Santee-Cooper believes in private enterprise, the fundamental principle of which is competition," the former governor said. "Private power is of a fascist nature because it is given a monopoly . . . Private power companies are far from being private enterprises. They are monopolistic and controlled by the government."

Santee-Cooper pays $200,000 annually to the state of South Carolina in dividends, although it was built with Federal funds, Jefferies said. He added that his goal through Santee-Cooper is to try to bring about a balanced economy in the state which is half industrial and half agricultural.

Washington

Power Bill Challenged

THE constitutionality of a power bill passed by the last legislature was challenged in a court action filed at Olympia last month. The law proposed, among other things, that two or more public utility districts be permitted to join forces to purchase properties of privately owned power companies.

Olympia firms and individuals who brought the court action seek to prevent the Thurston County Public Utility District from joining seven other PUD's to purchase facilities of the Puget Sound Power & Light Company.

Wisconsin

Protest Rate Increase Request

A PROTEST against a Wisconsin Telephone Company request for a boost in rates developed as delegates met at Madison last month for the fifty-first annual convention of the League of Wisconsin Municipalities.

The league's executive committee named a committee of seven to recommend a course of action. Concerted action to block increases was proposed.

Progress of Regulation

Apportionment Methods Reviewed in Connection With Telephone Rates

THE Maine commission authorized increased rates for the New England Telephone & Telegraph Company calculated to produce a return of 6.5 per cent on net investment in the state. A dissenting commissioner criticized the net investment basis in view of a statutory provision that rates shall be reasonable, taking into consideration the fair value of the property with a fair return thereon.

Subscribers in the state, said the commission, must provide their fair share of revenues required by the company as a whole when it operates in other states. Intrastate rates must be determined upon the basis of the company's investment, operating expenses, revenues, and earnings as related to intrastate operations alone. The result of separation methods used in apportioning plant and operating expenses led to the belief that these methods would produce an inequitable result and assign too much of the rate burden to the intrastate service.

The commission, in reaching this conclusion, noted various facts. Over a period of years substantial reductions had been made in interstate rates, while intrastate rates remained at a generally constant level. Interstate rates were reduced at the end of the war period, while intrastate rates had to be increased because of increased costs. The estimated return under intrastate rates would be less than one per cent, while the return from interstate operations would amount to 6.69 per cent.

Rates charged for toll calls made wholly within the state exceeded rates applied to calls of comparable time and distance when the latter happened to cross state boundaries. Moreover, proposed increases in intrastate revenues would be disproportionately divided between exchange and toll service, to avoid a greater discrepancy between interstate and intrastate tolls.

Separation of investment and operating expenses for that portion of plant lying between the central office and the subscriber station by application of the so-called subscriber line usage factor was called unsound. The commission said it should at least be so modified as properly to compensate for the different conditions of use in intrastate and interstate service caused by the different methods of charging for exchange and toll service.

Costs incurred by the American Telephone and Telegraph Company in rendering services to the operating company under a license contract were said to be the proper measure of the amount to be allowed as an operating expense in view of the absence of arm's-length bargaining. The income tax of the parent company was excluded from cost.

Ratepayers, it was said, should not be expected to pay for advertisements designed to promote rate increases or to make the public more receptive thereto. This was said in connection with cost of advertising by the parent company.

Similarly, in respect to payments to

the affiliated Western Electric Company, it was said that the standard of compensation for supplies and equipment must be that of reasonableness because the parties do not bargain at arm's length.

Allowance was made for charges for employee relief and pensions, including interest on an unfunded actuarial reserve requirement. It was shown that this interest was essential to the proper maintenance of the pension fund, and the company had properly developed its pension plan step by step. *Public Utilities Commission v. New England Teleph. & Teleg. Co. (FC No. 1316).*

Uniform Rate for Residence and Business Extensions Rejected

A TELEPHONE company furnishing exchange service by means of a magneto switchboard and having a completely metallized circuit was allowed a rate increase by the Wisconsin commission where its present rates were not affording it an adequate return.

A proposal on the part of the utility to charge the same rate for business extension phones as for extension phones in residences was rejected. It was pointed out that the higher installation costs and the higher average calling rate on business phones would make a uniform rate for these two types of service discriminatory.

A new type of service offered by the company involving an additional charge of one dollar was rejected. The company proposed to keep separate toll records for all telephone users in a household other than the subscriber. In rejecting this charge, the commission pointed out that no utility service was involved.

The new rates authorized would allow a return of 5 per cent on a net book value rate base. *Re Amery Teleph. Co. (2-U-2970).*

Award of Redemption Price Rather Than Liquidation Price to Preferred Stockholders Upheld

THE United States Court of Appeals affirmed an order of the Securities and Exchange Commission awarding additional sums to holders of preferred stock in connection with an approved plan for liquidation of a subsidiary of a holding company. The plan provided for merger of the subsidiary into an affiliate and retirement of its preferred stock at liquidation prices plus accrued dividends.

The preferred stockholders had objected to their lot under the plan. To avoid delay in carrying out the plan an escrow fund was created to provide for the excess over liquidation prices of the preferred stock which the commission should ultimately fix, together with such additional amounts as it should award. The order granting the additional sums brought the total payment for the preferred stock up to the redemption price.

The commission, in so acting, considered the earnings history and prospects of the company, capitalization ratios and earnings coverages, and yields on other securities. It also weighed the possibility that the preferred stock might have been limited to the liquidation price by voluntary action of the company apart from § 11 of the Holding Company Act. Those contesting the commission's action took the position that, apart from the necessity of complying with § 11 of the Holding Company Act, business judgment dictated the merger of the subsidiary into its affiliate. They claimed that such a merger would have been accomplished under local law pursuant to which preferred stockholders could have received only the liquidation price of their stock.

The commission approached the problem of evaluating the stock from the point of view that fairness and equity require that the preferred stockholders

be accorded the equitable equivalent of the rights surrendered. It emphasized that, while the merger of the two companies was considered for several years, no action to promote that end was taken until the present plan was proposed as a means of complying with the act. The commission was not persuaded that the merger was brought about solely by considerations unrelated to § 11. On the contrary, it found that the primary motivation for the plan was the necessity of compliance with the Holding Company Act. It concluded, therefore, that only limited weight could be given to the possibility of the occurrence of such an event apart from the act, and that the possibility of the termination of the company's existence and the effect of local law could not be regarded as having a substantial effect on the value of the rights of the preferred stock.

The court stated that recent decisions by the Supreme Court abundantly demonstrated the soundness of the commission's thesis, that the constant in cases of this sort is purely Federal in concept and application, and that the measure of what is fair and equitable may be taken in terms of investment, or going concern, values. Those cases, it said, clearly established the legal validity of the commission's method of evaluating in cash terms the equitable equivalent of the preferred stock. It also believed that they constituted additional support for the proposition that investment values, rather than charter provisions, measure the preferred stockholders' rights.

The court agreed with the commission that the record did not reveal substantial evidence of the inevitability of the merger or dissolution of the company in the absence of § 11 of the Holding Company Act. It held that the probability of the termination of the corporate life of the company, as indicated by the record, need not have been regarded by the commission as substantially affecting the intrinsic value of the preferred stock.

The court pointed out that the escrow arrangement enabled the holding company to proceed with the plan and to take advantage of favorable market conditions with substantial reward for its efforts. It held that the commission exercised the power it had reserved to award the preferred stockholders a sum sufficient to give them a return thereon measured by the return they would have received had the stock remained outstanding. This, the court held, was fair and equitable. It stated that this action put the preferred stockholders in a position substantially the same as if they had received the full value of their stock at the time of the consummation of the plan. *Re Pennsylvania Edison Co. et al.*

Work under Construction Excluded from Rate Base

THE New Jersey Board of Public Utility Commissioners allowed a water utility a rate increase upon a showing that the existing schedule had become unjust and unreasonable because it did not allow the company to earn a fair rate of return. However, the rates proposed by the company were rejected after the commission's revision of the company's rate base made it apparent that an excessive rate of return would be earned if they were allowed.

The company's working capital requirements were reduced by the commission to the extent of funds which had been accumulated for Federal income taxes which would not become due for sometime in the future, which funds would be available for working capital.

Construction work in progress upon which the company had capitalized interest was excluded from the rate base. Investors, the commission said, were indirectly compensated for the provision of funds during construction by the capitalization of interest so that no return on these funds should be allowed.

Valuation exhibits presented by a company witness were accorded little probative value when he displayed a lack of firsthand knowledge as to the condition of the property and frankly admitted

that he had nothing to do with the preparation of certain composite price indices which were the most significant factor affecting his valuations. *Re Monmouth Consolidated Water Co. (Docket No. 4349).*

More Costly Generation Explains Additional Revenues

THE Wisconsin commission, in considering an electric utility's application for a rate increase, deducted the full amount of customer contributions to plant construction in determining the rate base.

An increase in the company's revenues from off-peak water-heating service was justified by reference to the increased cost of generating electric energy and use of Diesel generation where formerly all energy had been obtained from hydraulic generation or purchase.

The new rates authorized by the commission would yield a return to the utility of approximately 6.3 per cent on its rate base, which the commission considered reasonable and lawful. *Re Northwestern Wisconsin Electric Co. (2-U-2926).*

Gradual Changeover from Flat to Metered Service Upheld

THE Montana commission permitted an electric company to make a gradual changeover from flat to metered water-heating service. The company's schedule permitted old customers using the same equipment at the same location to remain on the flat rate while requiring new customers, or old customers changing equipment or location, to come under the metered rate. The commission ruled that this did not result in undue discrimination.

The company had originally set up flat rates as an outlet for large quantities of dump power, but this power had ceased to exist and the company had been forced to purchase electricity for sale at increased costs. It wished to change over from flat to metered service gradually to avoid extreme hardship to the customers and the necessity of installing, on a fixed date, additional meters to take care of the service. The company believed that less inconvenience would occur by permitting the gradual changeover and estimated that within approximately five years the changeover would take care of approximately 80 per cent of the flat rate accounts.

The commission believed that metered service is more fair and equitable. It also felt that the company's control over flat-rate use is not possible and that metered service should, therefore, be installed.

The commission held that a utility is not required to charge the same rate for all service. It observed that it is common practice for a utility to have different rates for commercial users and domestic users. It pointed out that it is likewise common practice for domestic rates to vary as to the types of service performed. The commission said that as long as the classification between the types of service is reasonable, the fact that the rates vary does not result in discrimination.

The mere fact that certain users are served through meters while others are served through flat rates does not in itself show unjust discrimination, the commission said. *Re Mountain States Power Co. (Docket No. 3694, Order No. 2092).*

Power of Commissioner to Limit Payments To Parent Company Upheld by Court

AN Oregon statute authorizes the public utilities commissioner to investigate the budgets of expenditures of public utilities as to certain items, in-

cluding proposed payments for services to corporations having affiliated interests. The commissioner has authority to determine whether such payments are fair and reasonable and not contrary to public interest. The state circuit court has upheld orders under that law.

The Pacific Telephone & Telegraph Company had set up, in its 1948 and 1949 budgets, certain items which it proposed to pay to the American Telephone and Telegraph Company under the so-called license contract. These amounts were based on a percentage of gross earnings. The commissioner decided that this was contrary to public interest, the interest of the company, its majority stockholders, and its ratepayers in the Oregon area.

The court not only held that the law does not violate state and Federal constitutions but ruled that the commissioner had not acted in excess of his authority. The court said:

> The commissioner is required by law to regulate the rates of public utilities and the authority given him by § 112-481 to approve or reject budget items is essential to an orderly and effective exercise of his duties of rate regulation. The standards set up for the guidance of the commissioner in approving or rejecting budget items are fairness, reasonableness, and the public interest.

Evidence of expenditures by the parent company in carrying on activities which are the basis for the service charge, said the court, is valuable only in so far as it is of aid in determining the value to the subsidiary of the proposed service. It was said to be incumbent upon the telephone company to establish a reasonable need for the services and that the amount budgeted was not disproportionate to the value of the services.

The commissioner's order, however, was modified to eliminate a provision requiring the subsidiary to order or requisition service from the parent company. The court ruled that the statute did not confer authority on the commissioner to prescribe for utilities the method of doing business. *Pacific Teleph. & Teleg. Co. v. Flagg (Nos. 35,422, 35,798, 35,820).*

Three-cent Toll Rate Discriminatory

A TELEPHONE company's application for authority to increase rates was approved by the Wisconsin commission. The new rates authorized would yield a return of 5.34 per cent on a net book value rate base.

The utility's proposal to establish a 10-cent toll rate in an area previously served on a 3-cent toll rate was approved. Continuation of the present rate was considered discriminatory as placing an unfair burden on subscribers that did not make use of such service. *Re Southeast Teleph. Co. (2-U-3080).*

Advertising of Separate Blocks of Stock with Intention Of Asking for Bids on Only One

THE Securities and Exchange Commission authorized a holding company, which had applied for authority to sell either a block of no par value common stock of one of its subsidiaries or a block of par value common stock of another of its subsidiaries, to advertise the two separate blocks of stock with the express intention of asking for bids on only one a few days prior to the opening of bids.

The commission ordered a hearing since the proposal departed from the usual competitive procedure under Rule U-50 and it was uncertain as to the possible impact of that procedure on the rule. No one appeared at the hearing in opposition to the proposal, but the com-

mission said that it had some misgivings about it.

The commission was particularly concerned because the program might have the effect of discouraging interested persons from participating in the bidding and because the procedure was more expensive both to the company and to prospective bidders. This procedure might have the ultimate effect of lowering the net proceeds to be received for the stock sold.

It was observed that the proposed procedure was unique in commission experience under Rule U-50. While the commission did not necessarily agree that the claimed advantages would be realized, the procedure did not appear to be harmful to the company or to investors or consumers.

The commission cautioned that it was viewing this case as in the nature of an experiment. It was not approving the sale of either of the stocks, but was merely authorizing the invitation for bids and reserving jurisdiction over the terms of sale. *Re Standard Gas & E. Co. (File No. 70-2189, Release No. 9308).*

Municipal Water Plant Rates Not to Reflect Future Revenue Bond Requirements

THE Montana commission authorized a municipality operating a water system to increase rates 50 per cent. This increase, while not as large as the municipality had proposed, was held to be at least sufficient to provide funds for operations, payment of principal, interest, and the establishment of a reserve based on the sale of $400,000 of revenue bonds during the next year.

The water system was in bad repair. At a special election the issuance of revenue bonds in the amount of $980,000 had been approved to supply funds to finance necessary repairs and additions to the water system and to pay operating expenses. However, the city did not plan on issuing the full amount of the bonds during the first year. Only such bonds would be issued as would be necessary as the work could be satisfactorily performed, probably over a 3- or 4-year period. This procedure would prevent the payment of interest on money until it would actually be required for the payment of construction. Evidence indicated that the bonds to be sold during the first year would not exceed $400,000.

The commission was not interested in the type of construction and actual repairs of the system except in so far as the facts might affect the reasonableness of rates. It held that the future sale of bonds does not warrant present increases in rates to provide for principal and interest payments to commence two or three years hence. However, it did rule that it could consider expenditures to be made in the immediate future and fix rates to provide adequate revenues for such expenditures. Therefore, the increase was based only on the issuance of bonds during the next year by the municipality.

The city was not paying the water department rental for fire hydrants or for water used for street or park purposes. The commission pointed out that the city operates the water system in its proprietary capacity and that such operation should be kept separate from its governmental activities. Fire protection, street and park facilities, and the operation of the city hall are financed by the taxpayers. Therefore, it ruled, the water patron as such should not be penalized by being required to furnish free water for city purposes. The commission said that the city, where practical to do so, should meter the water it uses and pay the same rates as any other patron. It also held that a flat rate schedule sufficient to pay for water used from fire hydrants for fire, street, and park purposes should be filed with it. Only in this manner could the proper allocation of expense be divided between the ratepayer and the taxpayer.

The city was also ordered to set up accounts in accordance with the Uniform

System of Accounts adopted by the commission for water utilities in order to permit determination of the reasonableness of rates and the financial condition of the water system. *Re City of Helena (Docket No. 3735, Order No. 2105).*

Commission Report Not Available to Public

AN application by a bus driver for an order commanding the New York commission to turn over to him a certified copy of an accident report made by a common carrier and a motor vehicle inspector regarding an action in which he was involved was dismissed by the special term of the New York Supreme Court.

The court ruled that the report of the carrier to the commission is confidential under the provisions of the Public Service Law, that the report of the inspector is not a public record within the meaning of the law, and that to review its contents would be violative of the spirit of the law.

The court pointed out that the legislature did not intend to make the commission an instrumentality of investigation so that information would be rendered available for the bringing of private suits. *Friedman v. Burritt et al. 90 NYS2d 755.*

Grandfather Rights Are Transferable

WHEN a motor carrier actually seeking authority for the transfer of the certificate of a carrier already operating made application for a new certificate, the carrier's error in procedure was pointed out by the Pennsylvania commission.

The carrier was under the impression that some commission policy or regulation prohibited the transfer of rights acquired by virtue of service rendered before the commencement of commission regulation. The commission pointed out that these rights, commonly called grandfather rights, were just as transferable as a direct grant from a commission. No policy or regulation had ever barred such transfers.

The commission elected to treat the application as requesting approval for the transfer and not for a new certificate and granted its approval when it appeared that the applicant was well qualified to render satisfactory public service. *Re Friedman et al. (Application Docket No. 73571, Folder 1).*

Combination Rate Does Not Enlarge Certificate

A MOTOR carrier certificate holder was fined and ordered to cease unauthorized activities when an investigation by the Pennsylvania commission revealed that he was rendering a through service by combining the authority granted in separate certificates.

The carrier's two certificates to render intrastate service contained several common points of origin and destination. The carrier's practice was to render through service by carrying shipments to these points, transferring them from one of its trucks to another, and then continuing on to the specified point of destination.

The carrier had filed a through rate for this service with the commission and believed that in some way this filing enlarged its authority.

The commission ruled that the rights of two separate certificates could not be combined unless the commission rules, the certificates themselves, or the com-

mission by special approval authorized such a combining of rights. The filing of the through rate, the commission added, in no way enlarged the authority granted by the certificate or rendered lawful what was otherwise unlawful. *Re Robertson (Application Docket No. 28063, Folders 3 and 5).*

Single Violation No Basis for Certificate Loss

THE Colorado commission dismissed a competitor's complaint against the unlawful operation of a taxicab company where it appeared from the evidence that only in one isolated instance did a taxicab driver operate beyond the limits of his company's certificate and that this operation was entirely without the knowledge or authorization of his superiors.

The commission took the opportunity afforded it by the proceeding to point out that bickering, charges, and countercharges between taxicabs serving a community are not conducive to satisfactory public service, and that a spirit of cooperation and the tendency to work together, rather than to work against each other, would be welcome. *La Salle et al. v. Rees (Case No. 4997, Decision No. 33419).*

State Control over Securities of Company Subject To State and Federal Commissions

THE Kentucky commission held that it has jurisdiction over the issuance of securities by a public utility company which is also a public utility under the Federal Power Act. The state commission had such jurisdiction prior to the enactment of the Federal statute. The company was organized under the laws of Kentucky and substantially all of its property was located in that state.

The Kentucky commission held that Congress, in enacting the Federal Power Act, did not intend to give the Federal Power Commission exclusive power to regulate the issuance of securities by a company subject to the jurisdiction of the state commission.

The securities were for lawful objects within the corporate purposes of the company.

However, the commission found that they were consistent with the proper performance by the company of its service to the public and would not impair its ability to serve. *Re Kentucky Utilities Co. (Case No. 1953).*

Other Important Rulings

THE United States District Court, in ordering enforcement of a holding company liquidation plan as approved by the Securities and Exchange Commission, held that the plan was fair, equitable, and constitutional, although contractual rights of security holders were affected and regardless of stockholder approval by vote or otherwise. The fact that the plan might not comply with state law was held not to affect its constitutionality. *Re Commonwealth & Southern Corp. 84 F Supp 809.*

A telephone company owner whose present earnings were shown to be inadequate to afford him a fair amount of compensation for work actually performed in the operation of the system and provided nothing for depreciation and return on his investment was allowed a rate increase by the Louisiana commission. The rates authorized would provide the owner with a return of 6 per cent on his investment over and above operating expenses. *Re Knight (Docket No. 5241, Order No. 5161).*

Appendix – Part I

Important addresses on questions of public interest delivered at the annual meeting of the Section of Public Utility Law of the American Bar Association at St. Louis, Mo., September 5, 6, 1949.

Current Problems in Regulation

By C. OSCAR BERRY*

THE basic objective of the Report of the Standing Committee of the Section of Public Utility Law, as we conceive it, is to summarize the significant developments of the past year in the field of public utility law and thus aid practitioners in meeting their problems of the coming year. A study of the immediate past in utility regulation is often the best guidepost to the future.

Our 1949 report contains digests of approximately 375 decisions, of both courts and commissions, together with references to noteworthy new legislation. Although the past year has not produced any startling changes in what we regard as the major principles of regulation, the report discloses that many interesting problems have been considered.

In recent weeks some of the decisions reported have been reviewed, several controversial issues have been appealed, and our legislatures have continued to add to the statutory law. A survey of the status of these current issues may help to complete our picture.

Legislation

THE 81st Congress is still in session. To some, its achievements have been disappointing despite the enactment of 280 public laws (as of September 1, 1949). Nevertheless, Congress has had plenty to do. There have been more than 9,000 bills and resolutions introduced in the two houses this session (2,480 Senate bills, 6,129 House bills, and 477 joint resolutions). But the emphasis has been on the major questions of foreign policy and aid, defense, housing, and labor; and there has been no outstanding legislation enacted directly and exclusively affecting public utilities.

But I do not mean to imply that such a condition is likely to hold for the future; this is the first session of a new Congress. Many bills affecting utilities are before both houses, in various stages of advancement. They cover all phases of public utility regulation. Bills exist which propose modifications or amendments of nearly all the major Federal regulatory statutes.

Much of the amendatory legislation represents proposals which have been before Congress on previous occasions. That is true with respect to the bills to change the Natural Gas Act. While the Report of the Standing Committee has been in the printer's hands, the House of Representatives debated and passed HR 1758, by a vote of 183 to 131. This amendment would remove from the jurisdiction of the Federal Power Commission all independent producers and gatherers of natural gas who sell their gas to pipe-line companies on a competitive basis. The bill is controversial, although its proponents claim it is designed only to clarify jurisdiction as to the area of natural gas control. The Senate also has before it a similar bill, S 1498, but has not acted on it; because of the heavy calendar, there is doubt of Senate action on that subject this session. Other bills are pending in Congress to clarify the

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jurisdiction of the Federal Power Commission; most significant are those which specify clearly the intention of Congress to exclude local gas distributing companies from FPC jurisdiction.

SEVERAL bills are of vital importance to our air carriers. Foremost among them is the proposal that would separate the payments made to the certified air lines for the carriage of air mail from such other subsidies as are deemed necessary under the Civil Aeronautics Act of 1938. While it has been recognized that some subsidy has been essential to promote the growth and development of the passenger and cargo business of the air lines, many informed persons now believe that the anomalous situation of concealed subsidy, in the form of mail pay rates, should be settled finally. They hold that mail payments are business transactions with the government for service performed; and that subsidies should be direct, and labeled for what they truly are. Hearings have been conducted on this proposal but no report has been rendered. Other proposals also of interest in this field include those which would amend the Civil Aeronautics Act, the Air Commerce Act, and the Federal Airport Act.

As indicated at page 5 of the Report of the Standing Committee, there have been many bills (45 as of August 4th) sponsored this year to repeal or reduce Federal excise taxes affecting utilities. While there is much sentiment in favor of the repeal, these and other war-born excises are a valuable source of Federal revenue. The administration is opposed to their removal under present budget conditions. Accordingly, it is doubtful if anything can be accomplished this session. Some utility executives fear that as soon as the Federal excises are removed, the states may be ready to enact equivalent local taxes.

Another significant field is that of public power. Bills are pending which would give Federal sponsorship to the St. Lawrence seaway, revive the Passamaquoddy tidal power project, expand the TVA, and create a host of new "valley projects" for the Columbia river, Missouri river, the Savannah, the Merrimack river, and the Central Arizona project.

Utilities will also be concerned with any action Congress may take on the following: bills to authorize the Rural Electrification Administration to make loans to farmers for telephones; three bills designed to eliminate the immunity afforded rail carriers from prosecution under the antitrust laws by the Reed-Bulwinkle rate bureau bill of the last Congress; and possible legislation on the current Federal-state dispute as to the title to tidelands oil.

LEGISLATION at the state level during 1949 has been particularly noteworthy. Forty-five state legislatures held sessions and considered a record number of bills. Our report summarizes in very general terms the more important areas of utility operations touched upon by the many bills. Some of the legislation is remedial; much of it is constructive and forward looking. Many of the proposals have been novel. Needless to say, counsel for local public utilities should be alert and aware of the extent and variety of the proposals introduced in their state legislatures. Those which fail to pass this year may become laws two years from now.

The following instances furnish an illustration of the type of proposals which would have had a decided effect on local utilities if they had been enacted. The governors of the six New England states proposed the creation of a New England Development Authority. The purpose was to survey and develop the natural and economic resources of that section of the country, including power, water, and prevention of floods. The governors also proposed that their six state regulatory commissions act jointly with the Federal Communications Commission to survey the need for telephone rate increases. These proposals were submitted for the approval of the respective state legislatures but failed to receive the full approval needed. In another instance it was proposed to establish a permanent state Commission on Necessaries of Life,

which would have the power to employ counsel and experts to resist increases in the costs of utility service and other business.

These and scores of similar proposals equally novel were before our legislatures this year. They may have many commendable social and economic objectives; but they would certainly be of vital concern to all forms of utility enterprises. Needless to say, counsel should study most carefully all such legislation and the reasons for it, to give maximum protection to their clients' interests.

Appeal Cases Pending

LEAVING the legislative branch, and looking at the judicial, we see that public utilities will participate actively in the cases to be considered next term by the United States Supreme Court. The pending appeals and petitions for writs of certiorari in utility cases bring many of the fields of public utility law before the court: discrimination, jurisdiction of Federal agencies, rate-making principles, standards of commission discretion, and principles of administrative law.

Several phases of the jurisdiction of the Interstate Commerce Commission are involved in a number of cases before the court. May the commission regulate the fares of a city bus company which has discontinued operations formerly subject to such regulation? That question is presented in United States *v.* Public Utilities Commission of the District of Columbia, and Washington, Virginia & Maryland Coach Company *v.* Capital Transit Company (Nos. 40 and 41, October term, 1949). Capital Transit Company operates bus and streetcar service in the metropolitan area of Washington. During the war it furnished bus service to the Pentagon building in near-by Virginia, under rates and joint fare arrangements with other carriers established pursuant to authority granted by the Interstate Commerce Commission. After the war, the bus company discontinued such service to the Pentagon building and, in fact, ceased to operate any service to Virginia. The court is asked to decide whether the Interstate Commerce Commission can insist that the joint fares previously established under the wartime operation be continued by the bus company, with respect to its District of Columbia operations.

In several other cases the standards employed by the commission in granting certificates of convenience and necessity are the subject of appeal. Adirondack Transit Lines *v.* USA and Interstate Commerce Commission (No. 104) is a good sample. In this appeal the principal question is whether a finding of "necessity" must include a showing that there is a present inadequacy of present facilities before a certificate may be granted.

ALSO before the court is the question whether coöperative associations, engaged in consolidating shipments of freight for members of the association for the purpose of obtaining the benefits of volume freight rates, are subject to regulation by the Interstate Commerce Commission as freight forwarders if they also handle freight for nonmember shippers. Do they thus hold themselves out to provide transportation of property for compensation, for which they must obtain authority from the commission? The cases presenting these points are Nos. 113 and 114, United States and Interstate Commerce Commission *v.* Pacific Coast Wholesalers Association et al.

The court is also expected to decide whether segregation of dining car facilities on an interstate railroad is discrimination, and therefore prohibited, in Henderson *v.* United States of America, ICC, and Southern Railway (No. 25). This is a variation of the subject of discrimination in carrier service which has been before the courts several times in recent years.

An interpretation of the discretion of the Civil Aeronautics Board under the Civil Aeronautics Act is to be scrutinized by the Supreme Court in State Airlines, Inc. *v.* Civil Aeronautics Board (No. 157). The problem before the court is whether, in selecting an applicant who is "fit, willing, and able" to operate an air route which the Civil Aeronautics Board has found to be required by the public

convenience and necessity, the board is required, as a matter of law, to consider as *not eligible* for possible award of the route, all applicants whose proposed operating plans do not specifically cover every portion of the route actually awarded. Also, is the board precluded from giving a route to an applicant which did not specifically request a "substantial portion" of the route actually awarded, but which did include in its application a customary "catch-all" clause? The board had granted a certificate to a carrier which had not requested certain parts of the route awarded by the board. The application had, however, contained the usual catch-all clause. The court of appeals overruled the board, holding that the board did not have the statutory authority to issue a certificate under such circumstances. The decision of the court is summarized on page 23 of the Report of the Standing Committee; it is reported in 174 F2d 510.

THE Federal Power Commission has asked the court to review an adverse lower court decision, overruling the commission on a matter of jurisdiction, a vital matter to a growing list of gas companies. (Federal Power Commission *v.* East Ohio Gas Co., No. 71.) It presents the question whether the commission has jurisdiction under the Natural Gas Act to regulate utilities which receive out-of-state natural gas at the state line, and transport it wholly for their own distribution. The court of appeals (for the District of Columbia circuit) held that the commission lacked such jurisdiction in East Ohio Gas Co. *v.* Federal Power Commission (173 F2d 429, 77 PUR NS 97). Because East Ohio operates wholly within the state of Ohio, does not transport natural gas for any other distributing company, and does not sell natural gas at wholesale to any other distributing company, the court of appeals held that East Ohio is not a natural gas company as defined in the act, and that East Ohio is not engaged in the interstate transportation of natural gas in interstate commerce. In its petition for a writ of certiorari the Federal Power Commission alleges that the lower court erred in holding that the definition of interstate commerce in the Natural Gas Act is not coextensive with its ordinary and well-established meaning.

The calendar of our highest court also contains requests to review two decisions of state courts of general interest to this group. The question posed by a decision of the Maryland Court of Appeals is whether a vehicle tax imposed by the state of Maryland on interstate carriers is a burden on interstate commerce, where the tax is levied for the use of Maryland roads, but without any specific relationship to the extent of road use. The case is No. 118, Capital Greyhound Lines, Pennsylvania Greyhound Lines, and Red Star Lines *v.* Arthur H. Brice, Commissioner. The Maryland court upheld the tax, which is a levy of 2 per cent of the fair market value of each vehicle, and is collectible by the state department of motor vehicles at the time this certificate of title is issued.

AN opportunity to review basic principles of rate making is afforded the court in Department of Public Utilities *v.* Lowell Gas Co. (No. 192). The question here is—did the 1944 decision of the Supreme Court in Federal Power Commission *v.* Hope Natural Gas Co. (51 PUR NS 193, 320 US 591) relieve state agencies, as well as Federal agencies, from the necessity of adhering to formulae in fixing rates of public utilities? The department of public utilities of the commonwealth of Massachusetts wants a review of a decision of the supreme judicial court of Massachusetts which overruled the department in a rate proceeding where no clear-cut finding of a rate base had been made. The decision of the Massachusetts court is discussed in the Standing Committee Report, Lowell Gas Co. *v.* Department of Public Utilities (78 PUR NS 506, 84 NE2d 811). The department avers that the Massachusetts court erred in "unjustly imposing on ratepayers the discarded and rejected 'fair value doctrine.'"

But we must not confine our interest to the Supreme Court. Our other courts

can be expected to produce a substantial number of interesting opinions. A formidable array of appeals from decisions of our Federal regulatory agencies is in the courts; several of major interest will be heard this coming year by the United States Court of Appeals for the District of Columbia Circuit.

In the field of air carrier regulation, the important decision of the Civil Aeronautics Board in the Air Freight Case (Dockets No. 730 and 810) has been appealed. A summary of the tentative opinion of the board is set forth in our Standing Committee Report, at pages 28 and 33. Subsequently, in July, the board issued its final opinion. Several established air lines, operating under certificates from the board, have appealed the final decision which granted certificates of convenience and necessity to four carriers for the purpose of engaging in air transportation of property only. American Airlines et al. *v.* Civil Aeronautics Board (No. 10374). This appeal is outstanding because it tests this newly announced policy of the board.

ANOTHER significant order of the Civil Aeronautics Board will be reviewed in No. 10342, Standard Airlines *v.* Civil Aeronautics Board. This is an appeal from an order of the board which revoked the letter of registration of Standard Airlines as an irregular air carrier. Earlier action of the court in reviewing an interlocutory order of the board is reported at page 47 of the Standing Committee Report. The present appeal is from the final order of the board. The action of the board in this respect is the first of this type taken by the board. It requires Standard Airlines to cease operating any form of air transportation, because of flagrant and willful violation of regulations.

The Federal Power Commission appears in two interesting cases pending before the court of appeals. In one, the Arkansas Power & Light Company is making its second trip through the courts on the problem of whether to conform to the accounting regulations of the Federal Power Commission, or to state-prescribed regulations of the Arkansas commission. The utility's first appeal on this subject ended when the United States Supreme Court held that the courts had no jurisdiction because the company had "failed to exhaust its administrative remedies." The order now being appealed is reported on page 13 of the Report of the Standing Committee. It requires that the accounts prescribed by the Federal Power Commission shall be the fundamental or basic corporate books or records, and that they shall be paramount to any other accounts. On appeal the case is No. 10276, Arkansas Power & Light Company et al. *v.* Federal Power Commission.

In another proceeding, the same court will consider the validity of action taken by the Federal Power Commission in adopting its general Order No. 144, requiring natural gas companies to convert their gas contracts and rate schedules into prescribed forms of gas tariffs. A utility has challenged the regulation in No. 10125, United Gas Pipe Line Co. *v.* Federal Power Commission. In its petition for review, the utility alleges that the commission has attempted to change its gas contracts, by the conversion into the form of gas tariffs, without a hearing on the merits of the utility's particular contracts. The restatement into the form of gas tariffs of all existing gas rates, contracts, charges, and classifications was prescribed by the Federal Power Commission in 1948. The purpose of the new rules, as explained by the commission, is to simplify the complicated gas contracts on file, and reduce them to the common denominator of simplified schedules, described on a consistent and uniform basis.

THE constitutionality of the condemnation provisions of the Natural Gas Act has been upheld lately by the Federal District Court for the western district of Louisiana, in Tennessee Gas Transmission Co. *v.* Thatcher. The 1947 amendment to the act provided for the delegation of the power of eminent domain to private gas companies, on obtaining certificates of public convenience and necessity from the Federal Power Commission. The district court found that

the enactment was fully within the power of Congress to regulate interstate commerce. As a result the holder of a certificate may acquire by condemnation the necessary rights of way or easements for the construction of its pipeline.

Although we do not have available a complete list of pending appeals, it may well be judged that state courts will have an active year, particularly if the tide of rate increase applications continues to flow.

A rate proceeding of more than passing interest is pending before the court of appeals for the state of New York, for review of a commission order decreasing electric rates by $21,500,000 coincident with an increase in gas rates of about $11,000,000. The commission decision is *Re* Consolidated Edison Co. 78 PUR NS 221. Despite the fact that the state courts have fully upheld the legislation in Florida creating a regulatory commission for a single county (Florida Power Corp. *v.* Pinellas Utility Board, 75 PUR NS 248, 252, 40 So2d 350) as stated in our report, we understand the utility may seek a review in the Federal courts. The seventh judicial circuit will review the important decision of the Civil Aeronautics Board in the Air Freight Forwarders Case (page 28 of the report) in which the board denied certificates to the applicants but granted exemption to the air freight forwarders for a period up to five years to afford service to the public while the board is developing a permanent policy.

Federal Commission Proceedings

LOOKING briefly at the commission level of regulation, it is apparent that there will be considerable activity, but that much of it will be along well-established lines. The lack of novelty should not dull our interest, however, for what the future may lack in luster will be more than offset in economic importance.

The most widely publicized act of a regulatory body recently was the adoption of rules by the Federal Communications Commission in the field of radio and television—prohibiting give-away programs (Docket 9113). That decision may have a decided effect on the personal fortunes of some persons, but, for most of us, other decisions will have greater significance in the field of public utility law.

Our report summarizes at page 96 the conclusions reached by the commission on the matter of international telegraph rate classifications. They were developed this past year to enable the commission to participate in the international telegraph and telephone conference held this summer in Paris. (International Telegraph Charges and Services (FCC), Docket No. 9094.) Several commissioners and a number of staff members participated. Agreement was reached on the basis of charges for international telegraph rates which may become effective in this country.

The United States is not yet a part signatory, but it is proposed now that we become a party. Such action will require Senate approval under the treaty-making power.

The Federal Communications Commission commenced a major piece of work when it undertook depreciation studies for the various member companies of the Bell telephone system. The results of the first study are set forth on page 53 of the Report of the Standing Committee. The commission estimates that total depreciation reserves of the Bell system companies approximate $2.5 billion, which is about 31 per cent of the total plant investment of the Bell system, of over $8 billion. The commission points out that the depreciation reserve should be deducted as a step in determining "net investment," on the basis of which a fair return is sought from telephone users. Some state commissions will be in accord with the conclusions of the FCC while others, such as California, Missouri, and Pennsylvania have heretofore had different views.

IN a slightly different field, but of nation-wide importance, is the antitrust proceeding against Western Electric and American Telephone and Telegraph Company. Commenced by the Depart-

ment of Justice last January in the district court in Newark, New Jersey, the suit has now reached the stage of pretrial proceedings. Answers have been filed by the defendants, denying the charges of law violation.

The Interstate Commerce Commission recently issued its final order in the application of the railroads for an additional increase in freight rates, in *Ex Parte* No. 168, warning of the dangers of too high tariffs. Petitions of the eastern railroads for higher passenger fares are still pending. Moreover, the railroads are deeply concerned over the increased costs commencing this month of September, due to the general application of the 40-hour workweek to nonoperating employees.

While the commission is continuing to hear and act upon increases for current rates, it also is busily engaged in hearing the war reparations cases, in which the Federal government is seeking to recover between two and three billion dollars from the railroads, claimed to have been overcharged during the war. Hearings have been started on these vast claims, but the railroads have not yet put in their initial evidence. This important case will be watched with great interest by many who are concerned over the welfare of the railroads. In fact, many users of railroad facilities have intervened, along with the entire body of railroad employees, more than 1,300,000.

THE tremendous potential growth in the use of natural gas is seen in figures released by the Federal Power Commission just recently. During the fiscal year ended June 30, 1949, the commission authorized the construction of a total of 7,045 miles of pipelines, which together with related facilities will cost over $500,000,000. The larger projects authorized in the past six months' period are expected to benefit 72 cities of more than 50,000 population, as well as many smaller communities. Many cities in the East will have natural gas for the first time: New York (Staten Island) this summer; Baltimore in 1950; and Massachusetts, 1951.

Will this bring the distributing companies within the regulatory powers of the Federal Power Commission? The answer may be given by the Supreme Court in Federal Power Commission *v.* East Ohio Gas Co., already noted as pending before the Supreme Court. It may be answered, too, by the legislation before Congress, designed to make it clear that the commission has no jurisdiction over distributing companies. An FPC examiner has recently held that the commission has no jurisdiction over the several utilities proposing to use natural gas in the New York city area, in Docket No. G-1167. Five utilities plan to distribute natural gas at retail within the city and its environs. They will purchase gas from a pipe-line company, the gas to be delivered at a single point of delivery within New York city. To avoid duplication of facilities, the several distributing companies will use joint facilities for receiving and delivering the gas to the service areas of each company, but they have no facilities which cross state lines. The examiner has held that the companies are engaged solely in the local distribution of gas and will not be subject to Federal regulation under the Natural Gas Act.

I am not aware of any current proceedings before the Securities and Exchange Commission which are of major interest to this group. The commission is well on its way to a completion of its divestment duties under the Holding Company Act.

State Regulation

STATE commissions will be called upon to hear and decide many diverse issues. Undoubtedly the most difficult will be in the field of rate regulation. Rate levels have been changing in all utilities, as noted in the summary of the Standing Committee Report. They will continue to change in this next year, mostly upward.

The increases in freight rates of railroads recently authorized by the Interstate Commerce Commission are being followed by action throughout the states at the local level. In the telephone field, the Bell system companies had rate in-

crease applications pending in the aggregate amount of over $200,000,000, as of July 1st. Similarly, it will be necessary for the commissions to consider continued applications for increases in the gas and electric fields as well as in the transit industry, although it must be borne in mind that transit fares, just as railroad tariffs, already have attained fairly high levels. Today, 63 cities have transit fares of 10 cents or more, whereas in 1945 only 23 cities had fares as high as 10 cents. But, costs of operation have continued to increase, despite some decline in the general consumers' price index.

Utility rate increases generally have lagged behind general price levels, much the same as after the first World War. Apparently, rates have not yet caught up with costs. The disparity will be accentuated if there is another full-scale round of wage increases. We still do not know the answer to the steel wage negotiation —which will undoubtedly affect the utilities' wage costs in the coming year.

OTHER matters cropping up before local commissions will include certificate proceedings, financing needs, and problems incident to serving new areas and the substitution of one type of service for another. Urban transit continues to trend toward busses in place of street railway operations. While railroads are asking for hearings on petitions to discontinue nonpaying trains, motor carrier proceedings are multiplied, and becoming a source of concern to some state commissions. And many eastern cities will be making the changeover from manufactured gas to natural gas. All of these and many new matters will keep the state commission dockets well filled.

The tide of rate increase applications for all types of utilities will inevitably bring about appeals and reviews. What standards will be applied? In the past year, state courts appear to have been eminently fair in their reviews of commission decisions. Many of them have required, as indicated in the appeals reported this year, that the state commissions employ standards sufficient to permit an adequate review. Commissions have been reversed when they attempted to fix rates experimentally, without a rate base or other standards adequate to test reasonableness. At the same time it has been apparent that speedy consideration must be given to the applications for rate increases at the commission level, if the utilities are to receive the relief they request.

One method of accomplishing this which has been used with growing frequency has been to grant a temporary, or emergency, increase, frequently in an amount somewhat less than the utility would be entitled to if a full determination were made of all legal rights.

Conclusion

THIS has been a "quick look" at the principal pending matters in utility regulation. It may be too superficial to be of much value, other than to renew our realization that there are many avenues of action which can affect utility regulation. In this coming year, we can certainly expect many active developments on the regulatory front in each branch of our government: legislative, judicial, and executive.

Reviewing the past and glancing at the problems pending today give us the best foundation from which to appraise the future; yet it is conjectural at best. Problems which appear to be highly significant among the list of pending issues may quickly lose their magnitude, and be replaced by others not yet known. We confess that we cannot envision very clearly the impact on regulation likely to result from rapid changes in economic conditions, international affairs, politics, and improvements in the art. Accordingly, we'll rest our case, confident that the next Standing Committee of the Section of Public Utility Law will observe and report faithfully on all that we now see so dimly.

APPENDIX

Current Developments in the Communications Field In Municipal Taxation and in Rate Regulation

By WILLIAM I. AITKEN*

IN attempting to present a report to you of the current developments in the communications field I became convinced that I am inadequate for the task. I am reminded of the sprinter who, when complimented on running the 100-yard dash in nine and one-half seconds, said: "I could run that race in nine seconds if it wasn't for the longness of the distance and the shortness of the time." Likewise, I might do my assignment justice, if it weren't for the longness of the subject and the shortness of the time.

Among current developments which may be of interest, and which I shall discuss, are those involving municipal taxation and rate regulation, the principles of which extend throughout the public utility field.

In the realm of municipal taxation, most, if not all, municipalities are finding it increasingly difficult to raise revenues required to meet the costs of fulfilling governmental responsibilities. The resort to the nonvoting private utility as a source of funds, through imposition or substantial increase of occupation taxes, usually measured by a percentage of gross receipts of the utility within a city, is rapidly gaining favor. The result of an imposition or increase of the occupation tax by one city frequently results in a chain reaction, stirring up similar tax problems for the utility in near-by municipalities.

THE range of effective challenge in the courts to such excise taxes is limited. The usual requirement of reasonableness of the class, and uniformity of the tax within the class of utilities taxed, is easily met by the taxing authorities. The utility is normally left with only one method of defense or attack; namely, that the tax is so excessive in amount as to result in confiscation. With the general reluctance of the courts to overturn revenue acts of cities in the exercise of legislative functions, we have learned that the burden of establishing proof of the confiscatory character of such a tax is a very heavy one.

Even though the right to levy an excise tax cannot in the usual case be successfully challenged, the decisions of a few regulatory commissions in New Jersey in 1917 [1]; Idaho in 1921 [2]; Maine in 1926 [3]; Tennessee in 1932 [4]; North Carolina in 1934 [5]; Washington in 1933-4 [6]; and Michigan in 1936 [7]; followed by a decision of the Illinois Supreme Court in 1936 [8]; and recently, in January and August, 1949, decisions of the Missouri Public Service Commission [9]; and in June, 1949, a decision by the Washington Supreme Court [10] reviewing for the second time the same question first decided in 1943 [11] —provide adequate precedents for both a legal and political remedy against the imposition of an excessive burden of municipal occupation taxes.

As a legal remedy, these decisions are authority for the propriety of an order of a regulatory commission directing the

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[1] *Re* Burlington Sewerage Co. PUR1917D 766, 767.

[2] *Re* Idaho Power Co. PUR1921C 238.

[3] *Re* Castine Water Co. PUR1926A 1.

[4] *Re* Nashville Gas & Heating Co. PUR-1932A, 270, 279.

[5] *Re* Southern Bell Teleph. Co. 7 PUR NS 21, 33.

[6] City of Seattle *v.* Seattle Gas Co. PUR-1933E 253, 254; Department of Public Works of Washington *v.* Seattle Gas Co. 3 PUR NS 433, 479.

[7] *Re* Detroit Edison Co. 16 PUR NS 9, 24; *Re* Consumers Power Co. 14 PUR NS 36.

[8] City of Elmhurst *v.* Western United Gas & Electric Co. 13 PUR NS 441; 363 Ill 144; 1 NE2d 489.

[9] *Re* Southwestern Bell Teleph. Co. 77 PUR NS 33, 48, 60; *Re* St. Louis County Water Co. No. 11, 481, August 10, 1949.

[10] State of Washington ex rel City of Seattle et al. *v.* Department of Public Utilities, 133 Wash Dec. 861.

[11] State of Washington ex rel Pacific Teleph. & Teleg. Co. *v.* Department of Public Service, 19 Wash 2d 200; 142 P2d 498, 532.

utility to pass on to the service user in the city where such taxes are imposed, his proportionate share of any occupation tax imposed by such city.

As a political remedy, this development of the law when brought to the attention of the governing body should give considerable concern to the councilman who may have in mind the imposition or increase of such a tax, but who would not likely desire to have the tax passed on to the local user and possibly as a surcharge with an identifying label on the bill of every service user within his city.

THE Michigan regulatory commission virtually threatened the governing bodies of Michigan communities, in its decision in the Detroit Edison Company Case,[12] after first stating its view that the utility required the use of public property to enable it to serve the public efficiently, and that such use was of no injury to the public, in the following language:

> If any municipality in the territory of the Detroit Edison Company successfully maintains in the courts its position that it is entitled to rental for any of its public places . . . and if the company is compelled to pay . . . any amounts on account of such claims, it will certainly become the duty of this commission to increase the electric rates and charges . . . in that municipality sufficient to offset . . . We trust that no municipality in this state will undertake to enforce any such unjust or unfair claim.

I am advised that municipalities in Michigan have not imposed such taxes since this decision.

Cities opposing the passing on of occupation and similar municipal excise taxes to the customers of the utility within the city so taxing, have generally argued that this would constitute an unjust and unreasonable charge; a discrimination as between localities and similar classes of service; an illegal exercise of the taxing power by the regulatory body, through shifting the tax from the utility directly to the user; and that as occupation taxes are levied in cities where the principal part of the total revenue of the utility within the state is obtained, as well as the major portion, if not all, of the profits, that any discrimination against persons living outside these cities is so slight as to be negligible.

The Illinois Supreme Court in the City of Elmhurst Case in 1936,[13] which appears to be the only decision of a court of last resort, until the Washington decisions, culminating in the last decision of the Washington Supreme Court in June, 1949, had no difficulty with the city's arguments. The court found that it would be unjust to spread the 3 per cent franchise tax of the city of Elmhurst, assessed against the utility's gross receipts within the city, over the whole territory of the utility in the state of Illinois, "as that city alone receives the advantages of such annual payments." The court further held that as there was no statute prescribing the method of allocating such an item, "it may properly be written on the consumer's statement as 3 per cent."

IN the state of Washington, the right of the public service commission to order the Pacific Telephone & Telegraph Company to pass on to the telephone users in the cities where occupation, franchise, and similar municipal taxes were assessed, the pro rata portion of such taxes, was strongly contested over a period of years, and not finally settled until the decision of the supreme court of Washington on June 23, 1949.[14] A brief discussion of the background and a summary of this litigation may be of interest.

On June 22, 1938, eleven years prior to the final decision referred to, the telephone company filed a tariff with the Washington regulatory commission which provided "for the passing on to the company's subscribers, in those cities which then levied or should thereafter

[12] *Re* Detroit Edison Co., *supra*, Note 7.

[13] City of Elmhurst *v.* Western United Gas & Electric Co., *supra*, Note 8.

[14] State of Washington ex rel City of Seattle et al. *v.* Department of Public Utilities, *supra*, Note 10.

levy occupation taxes on the company, the amount of such taxes on a pro rata basis." [15]

Thereafter, commission hearings were held in 1938, with consolidated rate and practice hearings in 1939 and 1940, and in December, 1940, an order was entered permitting the company to pass on such taxes and also use of streets, taxes, and amounts payable under franchise ordinances.

At this time the occupation taxes varied from 1 per cent in the cities of Shelton and Yakima, to 3 per cent and 3½ per cent in Bellingham and Spokane, respectively, and 4 per cent in Tacoma and Seattle, with an additional use of streets tax in Spokane of $125 per day, and in Seattle of approximately $450 per day, together with certain additional franchise or other excise taxes in some cities.

Several of these cities instituted a review of the 1940 order before the superior court of Thurston county. The order entered on such review was then appealed to the Washington Supreme Court, and its first decision entered on October 23, 1943.[16] In this decision the court held that the regulatory commission "had no power to direct or permit the company to pass on franchise payments which were not 'so excessive as in part to amount to a tax,' but that it had the unquestionable power to direct or permit the company to pass on municipal occupation taxes, business taxes, and use of streets taxes."[17]

THEREAFTER, in 1947, the commission held hearings with respect to the municipal taxes and entered an order on October 9, 1947, authorizing the company to add all occupation, business, excise, and use of streets taxes to its charge for exchange service on a pro rata basis in the respective cities where, and to the extent, imposed. This order was appealed by the cities of Seattle, Spokane, Bellingham, and Tacoma to the superior court and then to the supreme court of Washington.[18] Again the Washington Supreme Court denied the claims of the cities and upheld the 1947 order of the regulatory commission, adhering to its own prior decision of 1943. The court had held in its earlier decision [19] that there was unjust discrimination in these special municipal taxes where treated as general operating expenses of the system and a basis for statewide increase in rates.

The court agreed with the Illinois Supreme Court in the city of Elmhurst Case in principle, but differed as to the annual payments required to be made under the terms of franchises, on the ground that the franchise is a contract voluntarily accepted by the utility, and provides a special privilege for which the city may collect an equivalent consideration. And, as such, the sums paid are a general operating expense just as sums paid for a private easement. The court concedes that the distinction between sums paid under franchises and occupation taxes is "rather finely drawn" [20] and is subject to the limitation that any excessive sums paid under franchises might be held to be a tax to the extent excessive, and apportioned like occupation taxes to the local subscriber.

IN the Southwestern Bell Telephone Company rate case [21] before the public service commission of Missouri, decided in January, 1949, the company had proposed to pass on to its subscribers certain license or occupation taxes on gross receipts in excess of 2 per cent, and such

[15] Brief of McMicken, Rupp & Schweppe and John N. Rupp, attorneys for the Pacific Teleph. & Teleg. Co., filed in State of Washington ex rel City of Seattle et al. *v.* Department of Public Utilities, 133 Wash Dec. 861.

[16] State of Washington ex rel Pacific Teleph. & Teleg. Co. *v.* Department of Public Service, *supra*, Note 11.

[17] Brief of McMicken, Rupp & Schweppe and John N. Rupp, *supra*, Note 15.

[18] State of Washington ex rel City of Seattle et al. *v.* Department of Public Utilities et al., *supra*, Note 10.

[19] State of Washington ex rel Pacific Teleph. & Teleg. Co. *v.* Department of Public Service, *supra*, Note 11.

[20] State of Washington ex rel City of Seattle et al. *v.* Department of Public Utilities et al. P. 537, *supra*, Note 10.

[21] *Re* Southwestern Bell Teleph. Co. 77 PUR NS 33, 48, 60.

excess to be added to the rates for the subscribers in the respective taxing cities, excepting, however, the cities of St. Louis and Kansas City, where the occupation taxes are 5 per cent of gross revenues. The taxes were levied in many of the cities in which the company operates and were not uniform. The commission found that an unjust discrimination existed and considered two methods of relieving it; one, to fix special exchange rates in the localities in question to allow for these taxes, and, the other, to allow the pro rata passing on of the tax itself as proposed by the company. The latter method was said to be more equitable. The commission did not approve the company's plan, because of the exemption of St. Louis and Kansas City, which it was said would result in an unreasonable and unjust discrimination. The commission suggested that the company propose a uniform method to eliminate the existing inequities, and if this could not be accomplished then the commission indicated that it would hold hearings to develop an equitable plan.

The Missouri Public Service Commission has taken a clear and unequivocal stand on this subject as recently as August 10th of this year in its decision in the St. Louis County Water Company Case.[22] In this case it appeared that 16 of the 66 incorporated areas served by the company had levied license or franchise taxes varying from $1,300 annually to 5 per cent of gross receipts. The company requested authority to place into effect, for those municipalities imposing such taxes, rates which would be sufficient to absorb the amount of any such taxes in excess of 2 per cent of gross receipts to relieve the existing discriminations. No change in the basic rates, which had been established on a system-wide theory of rate making, was sought. The case involved the single question as to the right of the company to pass on these excise taxes, some of which were levied as license taxes, and some as franchise payments for operating privileges.

THE commission concluded that an unjust and illegal discrimination existed under the system-wide allocation of such taxes as general operating expense of the company. In its order the commission cited the Pacific Telephone & Telegraph Company decision of the Washington commission, as well as the decision on appeal of the supreme court of Washington and the earlier decision of the Michigan commission in the Detroit Edison Company Case, and said:

> Such exactions, whether in the nature of license taxes, occupational taxes, street rentals, franchise payments, or any other similar or kindred tax, should be paid by the . . . consumers residing in the municipality which receives such taxes or payments.

The commission directed the company to file revised rates in those municipalities where such taxes were levied, so as to pass on to the customers within such cities their pro rata portion.

The pattern of commission and court approval for passing on such excise taxes to the customers in those cities where such taxes are levied has "come of age" in 1949 with the final review by the supreme court of Washington after extended litigation and the decisions of the public service commission of Missouri. These and earlier precedents would appear to be an important aid in halting the further imposition of such taxes and a method of legal relief where burdensome excise taxes are imposed.

AS my second point for discussion, I had originally included in this paper rather extended remarks on the subject of current developments in rate making. I had emphasized what may well be the beginning of a trend of decisions which give consideration to current price levels in fixing a rate base in excess of the original cost depreciated theory.

I had referred to and discussed the recent decision of the Indiana Public Service Commission in the Indiana Gas & Water Co. Case,[23] decided January 5,

[22] *Re* St. Louis County Water Co. *supra*, Note 9.

[23] *Re* Indiana Gas & Water Co. 7 PUR NS 1.

1949, where the commission, while refusing to adopt the reproduction cost new rate base theory, for the reason that it "would establish valuation at the highest possible level," said:

> On the other hand, it would be just as false for this commission to restrict its consideration to the use of the original cost depreciated theory as the one and only measure of utility property valuation, that, probably, being the lowest valuation that could be considered.

The commission stated that the Indiana Utility Act "contemplates that the commission will not be bound by any one theory of valuation." The commission took into account the increased price levels since the properties were constructed, and adopted a rate base of $15,000,000, which was $3,759,995, or 33 per cent, in excess of the "original cost depreciated, plus working capital (of) $11,240,005," and $4,962,611, or 24 per cent lower than "reproduction cost at current prices, less depreciation plus working capital (of) $19,962,611."

I HAD pointed to an earlier decision to the same effect by the Maryland Public Service Commission, which had likewise given some consideration to current price levels in its 1947 rate order in the Chesapeake & Potomac Telephone Company of Baltimore City Case.[24] The company had claimed a rate base of the average between original cost, depreciated, and a rate base measured by current cost, less depreciation, with the customary allowances in each instance for working capital. The commission held:

> It is clear, however, that the present value of the company's property exceeds its original cost and we have accordingly . . . allowed $1,513,000 in the rate base to reflect such excess. This represents an increase of less than 2½ per cent over original cost.

Also, I had discussed the decision of the Virginia Supreme Court of Appeals in 1947 in the appeal from the commission order in the Chesapeake & Potomac Telephone Company Case[25] where the court said:

> Obviously, then, any reasonable figure for the present fair value of the company's plant and property will be higher than the original cost, less depreciation.

I HAD cited a decision of the New Mexico Public Service Commission in December, 1947,[26] where the commission established a rate base for a very small gas company, and specifically added 5 per cent to the original cost to give some reflection of present-day values.

I had also pointed out that certain of the recent decisions of commissions in rate cases of other Bell telephone companies had recognized the problem and, in some instances, had allowed a somewhat higher rate of return on the rate base than formerly, rather than increasing the rate base itself. This point of view seemed to be underlying the decision of the Georgia Public Service Commission in January, 1949, in the Southern Bell Telephone Case,[27] where the commission said that the witness

> testified . . . that the effect of the new construction at current high costs and at the current rate of construction expenditures resulted in an annual decrease in the rate of return of approximately one-half per cent per annum. This does not appear entirely illogical and would seem to indicate that a slightly higher rate of return should be prescribed for the future than that indicated necessary for a past twelve months' period . . . it would appear that there is no immediate relief in sight for the pressure of higher construction costs which must be met to provide service to waiting applicants . . .

[24] *Re* Chesapeake & Potomac Teleph. Co. of Baltimore City, 70 PUR NS 97.

[25] Board of Supervisors of Arlington Co. *v.* Commonwealth ex rel Potomac & Chesapeake Teleph. Co. 72 PUR NS 1.

[26] *Re* Shaw Gas Co. 72 PUR NS 75.

[27] *Re* Southern Bell Teleph. & Teleg. Co. 77 PUR NS 7.

THE Missouri commission, in the Southwestern Bell Telephone Case,[28] in January, 1949, followed its prior General Order 38-A[29] that the utility rate base was to be the undepreciated original cost of the utility property to which is added materials and supplies and a reasonable allowance for cash working capital. As the commission said in its order:

> This will result in a rate of return to the company of 5.27 per cent under the formula used in the commission's General Order 38-A or 6.43 per cent on a depreciated original cost rate base.

The Louisiana Public Service Commission in the Southern Bell Telephone Case,[30] in May, 1949, said:

> The commission recognizes that, in the absence of offsetting factors, the company's earning rate will be forced downward so long as plant additions are being made at substantially higher costs than the average unit cost of the existing plant.

I had noted the comments of the National City Bank of New York in its widely circulated monthly letter on economic conditions, in the June, 1949, issue, that

> While the heavy additions to properties during the three years since the war, capitalized at the higher costs then prevailing, are a step toward adjusting book values in the direction of actual values, a large portion of the industrial plant is still greatly undervalued.

I had urged the imperative necessity that, in rate making, regulatory commissions must either give some consideration in the rate base to the effect of the inflationary price levels and current values as has been done by some commissions or, failing to do so, the only hope of a utility lies in a more liberal allowance by the regulatory commission in fixing the rate of return.

SUCH action is essential to provide the utility with sufficient dollars of purchasing power to enable it to meet expenses of operation, and necessary to provide an adequate margin of debt service and dividend coverage on outstanding securities to reasonably assure stability of the company. Less than this will not provide a reasonable return or enable the utility to attract from investors the capital needed to pay for the additional plant and equipment demands of the service.

The reason that I have had to abandon the extended discussion of this second point in my paper is due to the advice of my wife. After she had read my original effort and I had asked her if it was too long, she replied:

> It isn't exactly that your paper is too long—it's more that life is too short.

[28] *Re* Southwestern Bell Teleph. Co. 77 PUR NS 33.
[29] 62 PUR NS 129.
[30] *Ex Parte* Southern Bell Teleph. & Teleg. Co. 79 PUR NS 33.

Developments in the Field of Electric and Gas Utilities

By F. G. COATES*

I REGARD the 1949 report as an outstanding job. I was chairman of the Standing Committee several years ago, and can compare our work with the current report. While we compiled our report during the war years, when lawyers were shorthanded and overworked, this year's report is a marked improvement in every respect over what we were able to turn out and I tender to Chairman Berry and his entire committee my heartiest congratulations.

*Member, Santa Fe, New Mexico, bar.

APPENDIX

My assignment is to discuss the year's developments as they affect electric and gas utilities.

I assume that attorneys for these industries will have read and placed their own interpretation on all the noteworthy decisions in these fields, and that discussion by me of the individual decisions will serve no useful purpose. I, therefore, propose to deal almost entirely with trends, in so far as they are discernible. I believe that the most important subjects to these industries are regulation and taxation, using both terms in their broadest sense. However, I have found this year's decisions lacking in any important determination of a tax question.

Let us now turn to the year's developments in the regulation of electric utilities. The impression that I get is that the electric utility industry is becoming seasoned to and has pretty well learned to live with the kind of regulation that it has—whether of rates, service, financing, accounting, labor relations, or what-have-you. The year has brought no drastic new forms of regulation. We do not find the electric utilities resorting frequently to the courts. There are still a number of currently reported decisions with respect to regulation, which the electric operating companies inherited under the Holding Company Act, and which have to do principally with accounting under the Power Commission's Uniform System of Accounts and plans for divestment of the operating companies' stock by the holding companies. In this field, the litigation between the Arkansas commission and the Federal Power Commission, as to which shall prescribe the basic accounts of Arkansas Power & Light Company, is still going on. This case has been once to the Supreme Court of the United States, which declined to decide the issues of substance, on the ground that administrative remedies had not been fully exhausted. No one was greatly surprised when the Federal Power Commission decided that the Federal power to prescribe the basic accounts was paramount.

The trend toward upholding the administrative order if the findings of the administrative body are supported by substantial evidence, was continued in the decision of the Supreme Court of the United States in the Central Illinois Securities Corporation Case (69 S Ct 1377), wherein the court held that the scope of review in a suit in the United States District Court to enforce a plan approved by SEC under § 11(e) of the Holding Company Act, was substantially the same as that of a court of appeals, under § 24(a) of the act.

In this connection, however, the decision of the supreme court of Vermont setting aside a rate order of the state commission, because the order was not supported by the necessary findings as to rate base and rate of return, is noteworthy. The Vermont court held that the Hope decision did not relieve a rate-making body from the duty of disclosing the methods employed to reach prescribed rates so that the validity of the commission's conclusions could be tested by judicial review.

There have been several decisions during the year, in which electric utilities have sought to increase their revenues by reducing the percentage of the prompt payment discount. This discount is usually 10 per cent—and a great many operators have thought that this percentage was too large.

The other decisions affecting electric utilities which caught my interest were —that in the Alabama Electric Coöperative Case, in which the state supreme court held that the power company serving the area was entitled to intervene and contest the financing proposed by the coöperative for the construction of a competing power plant and power lines, and the decision in the South Carolina Public Service Authority Case,[1] in which it was held that a registered holding company, which had been required to divest itself of its holdings in a basic utility company, was empowered to sell them to a nonaffiliated company, although a state-owned public power authority had offered a higher price. In this last

[1] 78 PUR NS 406.

case, however, there was a very substantial question in regard to whether the public authority was permitted under the law to make the purchase.

WHEN we turn to the gas utilities, we find that the year has been considerably more turbulent, although not so much for the distribution companies as for the long-distance interstate natural gas pipelines. After a long string of defeats in their litigation with the Federal Power Commission under the Natural Gas Act, these companies have finally broken into the "win column." In the Panhandle Eastern Case,[2] the Supreme Court of the United States construed the language of the Natural Gas Act, which excludes from the regulatory power of the Federal Power Commission the production and gathering of natural gas, to withhold from the commission any power to prevent the transfer by Panhandle Eastern of undeveloped gas leases. The Power Commission had made the familiar contention that its regulatory powers could not be effectively exercised unless it had the power to control such a sale. I do not think this decision, important as it is, will have much effect on the bills which have been introduced in Congress to amend the Natural Gas Act so as to clearly, and beyond any question, exempt all phases of the production and gathering of natural gas from regulation by the commission.

In the East Ohio Case,[3] the court of appeals held that the East Ohio Gas Company was not a Natural Gas Company, subject to Federal Power Commission jurisdiction, although the company did receive natural gas transmitted in interstate commerce from two pipe-line companies at several points within Ohio. The East Ohio Company transmits and distributes natural gas wholly within Ohio, and makes no sale of any kind to any other company for resale purposes, and none of the gas it sells is consumed outside Ohio. This decision will be reviewed by the Supreme Court.

Other decisions worthy of mention are the Border Pipe Line Company Case,[4] holding that a certificate of public convenience and necessity from the Federal Power Commission is not required for the construction of facilities to transport natural gas from an interior point in Texas across the International Boundary in Mexico; the Montana-Dakota Utilities Company Case,[5] holding that where a natural gas company has constructed its pipelines across public lands, pursuant to the Federal Leasing Act, it has accepted the condition of such act, that the pipeline be operated as a common carrier and can lawfully be required by the Federal Power Commission to file rate schedules fixing charges for common carrier transportation of natural gas in interstate commerce; and the decision of the Federal Power Commission in the Atlantic Seaboard proceeding—and the Tennessee Gas & Transmission Company proceeding, requiring these pipelines to show firm contract for gas supply for the full period of the proposed gas sales contracts, in order to obtain a certificate of public convenience and necessity. This requirement was made, even though, in the case of Tennessee Gas & Transmission Company, the sales contracts did not obligate the company's consumers to take or pay for more than 75 per cent of the capacity of Tennessee's pipe-line system. In certain instances, the Power Commission has prescribed as one of the conditions to the issuance of the certificate, that all long-term financing be on open competitive bidding—and the power of the commission to attach such a condition has not as yet been contested in the courts.

IN the summary, on page 5 of the report, appears this statement: "Costs of utility service in most fields, with the principal exception of natural gas service, have moved to higher levels during the past year." This statement is correct in the strictly literal sense—in that there has not been any substantial number of recorded decisions in which the natural gas companies have sought increased

[2] 58 PUR NS 100.
[3] 38 PUR NS 397.
[4] 77 PUR NS 76.
[5] 75 PUR NS 167.

rates on account of increased costs. However, the statement is not to be taken as suggesting that the costs of the natural gas pipe-line companies have remained stable, while the costs of other utilities have increased. I think the only safe assumption is that the costs of natural gas service have increased—and will continue to increase somewhat proportionately to capital and operating costs in other utility fields. There is no question about there being a very substantial increase in the field price of natural gas, and practically all gas purchase contracts contain escalator and tax clauses, which are sure to increase the field price of gas at the input to the pipelines over the next few years. Another factor to be considered is the reluctance of owners of major gas reserves, which can be produced most economically, to sell to the interstate pipelines, because of the uncertainty as to whether or not such sales might eventually subject such owners to regulation by the Federal Power Commission.

In conclusion, it seems to me that none of the trends during the current year can be characterized as unfavorable, as far as the electric and gas utility industries are concerned, and that the decisions, themselves, are a reflection of the healthy growth and sound condition of these public service institutions.

Compulsory Arbitration of Labor Disputes Affecting Public Utilities

By GILBERT NURICK*

THE subject assigned for discussion at this time has so many broad ramifications that, unless we keep our eyes straight ahead, we shall find ourselves traveling on some interesting but remote and relatively unimportant byways. We are concerned today with the technique of compulsory arbitration as applied to labor disputes affecting public utilities. In order to come to grips with the main problem, we shall eliminate from our consideration, the subordinate issue of the use of compulsory arbitration in the settlement of disputes which merely involve the interpretation of an existing labor agreement.

Our real concern is the use of this compulsory process as a means of enforcing settlement of disputes arising out of the *negotiation*, rather than the *interpretation*, of labor contracts. The typical situation is the struggle between the company and the union when, following collective bargaining, they are unable to achieve agreement on such important issues as wages or working conditions. Mediation and conciliation have failed to induce an agreement and a strike or lockout appears imminent. When arbitration is required in such cases, the parties are compelled to submit their differences to some agency established by the government. In effect, that agency determines the contractual terms which will be binding on the parties. This is a serious and disturbing mechanism and merits our exclusive attention during the time allotted for this discussion. Consequently, when we speak of "compulsory arbitration" today, we shall confine the scope of that term to the enforced settlement of disputes resulting in what might be called "compulsory contracts." As thus limited, the subject is of particular interest to this section, since compulsory arbitration laws of this type in the United States are confined almost entirely to the public utility field.

THERE is a popular song which proclaims that its author was "born in Kansas and was bred in Kansas." This description might well be applied to compulsory arbitration in the United States. If we may by-pass the Adamson Law of 1916, which, by congressional compulsion, settled a railroad dispute by establishing the 8-hour day (39 Stat 721; up-

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held in Wilson *v.* New, 243 US 332, 37 SCt 298 (1916)), we may acknowledge that, so far as American experience goes, compulsory arbitration was born and bred in Kansas. Like many other prominent births in recorded history, moreover, this blessed or cursed event—depending on your viewpoint—was preceded by severe labor pains.

It has been estimated that during the period 1915 through 1919, approximately 700 strikes afflicted the Kansas coal mines. A serious shortage of coal resulted and the state, proceeding under its antitrust laws, appointed a receiver for the mines and proceeded to operate them under National Guard protection. The U. S. Army also stationed troops in the area of disturbance. Against this backdrop of crisis and public furor, the Kansas legislature, in special session in 1920, adopted its compulsory arbitration law (Kansas General Statutes Annotated 1935; 44-60 *et seq.*) over the vigorous opposition of organized labor. This statute established the Court of Industrial Relations composed of three "judges" with jurisdiction over certain industries deemed to affect the public interest. It expressly covered the manufacture and transportation of food and food products and wearing apparel and the mining or production of fuel, as well as the services of public utilities and common carriers. The court, which was essentially an administrative agency rather than a judicial body, was empowered to settle all controversies involving such industries and to seize and operate them during emergencies. Strikes, boycotts, picketing, and intimidation were made unlawful.

THE court promptly proceeded to investigate the coal mining industry. Certain officials of the UMW were summoned as witnesses, ignored the summons, were cited for contempt, and were sentenced to jail. A strike was thereupon called despite the antistrike provisions of the law. An injunction was obtained, was likewise disregarded, and a jail sentence of one year imposed for the second contempt. Both contempt sentences were appealed and were sustained by the U. S. Supreme Court in 1922 in Howat v. Kansas, 258 US 181, 42 SCt 277 (1922), without passing upon the constitutionality of the legislation.

The following year, however, the question of constitutionality was presented squarely and decided in Chas. Wolff Packing Co. *v.* Court of Industrial Relations of State of Kansas [PUR 1923D 746] 262 US 522, 43 SCt 630 (1923); (see also 267 US 552, 45 SCt 441 (1925)), the court holding that the food industry was not a "business clothed with a public interest" so as to justify wage determinations as a permissible restriction on freedom of contract under the due process clause. It is of particular interest to this group that the court by way of dictum regarded public utilities and common carriers as examples of businesses which are affected with a public interest. In any event, it is confidently predicted that if the holding in the Wolff Packing Case should be urged as a precedent today to invalidate compulsory arbitration of disputes involving businesses other than utilities, it will be relegated to that special chamber in the judicial morgue reserved for such illustrious corpses as Adair *v.* US, 208 US 161, 28 SCt 277 (1908), Coppage *v.* Kansas, 236 US 1, 35 SCt 240 (1915), and Adkins *v.* Children's Hospital, 261 US 525, 43 SCt 394 (1923).

HISTORY records that the Court of Industrial Relations expired for all practical purposes even before the Wolff Packing decision. It atrophied from general indifference and mounting opposition. The court was abolished officially in 1925, even though the statute still remains on the books, bloody and not unbowed. Thus, at this point, the boisterous offspring from Kansas, after a painful birth and a robust and vigorous infancy, became an unwanted and unclaimed waif.

Compulsory arbitration, born in the aftermath of World War I and buried several years later, was resurrected with the advent of World War II when the National War Labor Board operated in

effect as a compulsory arbitration agency. This experience must not be confused, however, with the type of compulsory arbitration legislation which we are discussing today. The board was founded originally by executive order of President Roosevelt, grounded upon the "no strike-no lockout" pledge taken by labor and management in December, 1941. It included representatives of labor, management, and the public and was organized as a patriotic contribution to the war effort. Having served the purposes of its creation, it was dissolved by executive order of President Truman on January 3, 1946.

Shortly after the cessation of hostilities, labor unions aggressively asserted the pent-up demands of their members for increased wages and improved working conditions. These demands led to a large number of strikes, some of which involved public utilities. When a utility like an electric, gas, water, or sewage company stops operating, the public is hit hard and fast. Not only is there inconvenience to patrons but such strikes constitute a definite and immediate hazard to health and life. It is not difficult to perceive why a large body of the public firmly believes that work stoppages in such basic utilities should not be tolerated.

IN their distress and under the terrific pressure engendered by public indignation, many states in 1947 grasped at compulsory arbitration as a solution to their problem. During that year, Florida, Indiana, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, Pennsylvania, Virginia, and Wisconsin enacted legislation providing for compulsory arbitration, seizure, or both in public utility labor disputes. These states, together with North Dakota (which had enacted a law in 1941) and Kansas, comprised a total of 12 states in which such laws were in effect. The New Jersey Court of Appeals in State of New Jersey *v.* Traffic Telephone Workers' Federation et al., decided May 26, 1949, 2 NJ 335, 66 A2d 616 (1949), invalidated the law of that state on the ground that it did not prescribe adequate standards to guide the arbitrators and consequently the statute unlawfully delegated legislative powers. This defect was later cured by amendment. The Michigan law was likewise invalidated by the Michigan Supreme Court in Local 170 TWU et al. *v.* Gadola et al. 322 Mich 332, on September 8, 1948, on the grounds that it required the appointment of a circuit judge as chairman of a board of arbitration in contravention of the division-of-powers provisions of the state Constitution and that it failed to prescribe adequate standards for the exercise of the delegated powers. The Michigan legislature later junked compulsory arbitration and substituted fact finding in its stead.

For your information and convenience, there is submitted as a supplement to this address [omitted] a table summarizing the provisions of the various state statutes and citing the decisions thereunder. You will note that there is much diversity in the provisions of the laws with respect to the types of businesses and services covered, the method of administration, the standards prescribed, the provisions for enforcement, the sanctions and penalties and judicial review.

THERE is a wealth of literature on the pros and cons of compulsory arbitration. A summary with appropriate topical divisions and a bibliography of material are presented as another supplement to this report [omitted]. While these are not submitted as a complete review of all the available literature, I believe that they comprise a generous helping of the digestible material on the subject.

It is highly desirable that we survey the beachhead established by the advocates of compulsory arbitration and determine whether, in the national interest, we ought to liquidate it or contain it within its present boundaries, or seek to expand it. It is necessary, in this delicate assignment, to cut under the emotional surface and view the problem objectively.

First, let us inquire: "Who wants this thing called compulsory arbitration

and why?" Organized labor definitely does not want it. I believe it is also a fair statement that the overwhelming sentiment of management is opposed to it. The real zeal for such legislation comes from a large and influential segment of the public which contends that the community is so dependent upon essential utility services for its very existence that work stoppages affecting such services simply cannot be tolerated. They assert that where the health and safety of the public are so directly affected, the well-being of the public must be paramount and the economic interests of the warring parties must be subordinated.

They argue that compulsory arbitration is entirely consistent with democratic principles since the people in the exercise of their rights as citizens voluntarily establish this process through their elected representatives. They answer the averment of the Kansas failure with the counterclaim that the Court of Industrial Relations was riddled with politics—as if this condition is the exclusive plague of the Sunflower state!

As lawyers, we must ackowledge that the proponents of compulsory arbitration make out a *prima facie* case. When we dissect the arguments of the opponents, however, and cut through the tissues of emotionalism, we find a hard core of real sense which calls for pause and serious reflection. The national policy in labor relations has been to encourage collective bargaining. My own experience in an office handling a fair number of such cases indicates that when the disputants know in advance that there will be an arbitration, this knowledge in and of itself usually retards genuine bargaining. Both sides lose the will and incentive to make those final concessions which are so important in achieving agreement. Even where a statute prescribes adequate standards, they generally are not mutually acceptable and the ultimate adjudication appears unreasonable in the eyes of the disappointed party. There is less enthusiasm to abide by an agreement foisted on the parties than by the terms of a contract voluntarily executed after collective bargaining. This reluctance is aggravated by the strong conviction of the parties that their freedom of contract has been impaired. The union sulks at the deprivation of its most effective weapon—the right to strike.

Lowell once wrote that "One thorn of experience is worth a whole wilderness of learning." We have already noted from the thorny Kansas experience that one does not stop strikes by merely enacting a law prohibiting them. History records other thorns of experience which dampen one's ardor for compulsory arbitration. The modern renaissance of this process was in New Zealand in 1894. It was applied there with notable irregularity and was abandoned on occasion.

In 1904, Australia enacted the Commonwealth Conciliation and Arbitration Act, which has experienced a checkered career. Australia has an area almost as large as that of the United States but its total population is somewhat less than that of New York city. Obviously, its economy is much less complex than that of this country and the problems of administering and enforcing compulsory arbitration there should be much less formidable than the difficulties encountered here. Yet statistics indicate that its strike rate exceeds that of the United States! Denmark, too, established an extensive system of compulsory arbitration in its tiny domain in 1936, but repealed it the following year. Norway and Sweden have employed compulsory arbitration to meet specific situations but have shied away from a general law adopting this principle.

Thus, we must conclude that actual experience with compulsory arbitration has not fulfilled the glowing predictions of its most insistent advocates. We have observed, too, that the compulsory technique is fraught with danger and that the public could be the unwitting victim of a process specially designed for its protection but failing in its purpose.

What should we, as lawyers, recommend as a course of action? It is not simple to venture a solution to this delicate and difficult problem without arous-

ing the ire of labor or management or a vocal part of the public or a combination of these elements. Yet, in the best tradition of our profession, we should have the courage to utter our sincere views on this controversial issue.

I BELIEVE that compulsory arbitration has gone far enough for the time being. We should observe its operations carefully in those states which have adopted it and compare the results with conditions in those jurisdictions which have not yet entered the dubious fold. We should resist any effort to expand the coverage of such legislation to industries where a work stoppage would not directly and promptly affect public health and safety, even though such industries may also be classified technically as "public utilities." You will note from the table submitted with this report that several of the state statutes include transportation within their orbit. There is a vast difference between a water company, for example, and a bus operator. In the one, a work stoppage would cause an immediate and direct threat to health and safety. The water company invariably enjoys a monopoly and the community has no substitute available. On the other hand, a suspension of bus service does not directly imperil public health and safety and there are several alternatives available to the patrons of the "struck" company. After all, the chief competitor of the bus company is the private car, and, if necessary, one can even walk.

A strike of an electric, sewage, or gas company has a direct effect on the health of the people affected. On the other hand, a strike of a trucking company would hardly cause a serious impairment to the health of the community, although it could cause much inconvenience. There are several other media of transportation available to the public.

WE must realize, moreover, that compulsory arbitration of rates of pay and those expensive "fringes on top" inevitably affect the price of the commodity or service sold by the company. Where a utility enjoys a monopoly, there is less likelihood of serious prejudice than in the case of a motor carrier which competes not only with other carriers performing the same type of service but also with other modes of transportation, including the privately owned vehicle. These are service industries and wages and salaries comprise approximately half of their operating expenses. One unrealistic award could eliminate the company from the field of its enterprise to the detriment of the company, its employees, and the public. It would seem much better from the standpoint of all concerned to endure a strike of average duration rather than force a settlement which would result in abandonment of service.

These considerations, I submit, make it advisable to observe and appraise the effects of existing laws before we expand their coverage. While we are testing compulsory arbitration in the crucible of experience within its present limits, we should try to perfect better techniques consistent with the policy of free collective bargaining. The method of fact finding, has, by no means, been given a fair and adequate trial. When properly and fairly applied, it can bring to bear the very strong pressure of public opinion for a voluntary settlement. We should intensify our efforts to halt work stoppages through the media of better understanding between employer and employee, more scientific and effective conciliation, mediation, and fact finding before we gamble too heavily on compulsory arbitration.

IF these voluntary methods work, we shall not need the dangerous weapon of compulsory arbitration. There will then be no necessity to enforce by legislative shotgun, a wedding which is distasteful to both the bride and groom. If the voluntary techniques do not work after a thorough and fair trial, we shall then face the dilemma of the marriage or the gun. My point simply is that we ought to give the suitors who are sold on the efficacy of free collective bargaining more time and opportunity before we pull the trigger.

Inflation and Depreciation in Public Utility Rate Making

By CHARLES C. WINE*

THIS is intended to be a broad, nontechnical, common-sense discussion. Support for the views expressed as to the need of judgment can be found in the Supreme Court decision of the Lindheimer Case (292 US 151),[1] leaving technical discussion of the subject of depreciation to Paul Grady, who shares the time allotted for this discussion with me, and who is far more capable and better equipped than am I.

Depreciation, as I use the term, is a function of public utility regulation and any discussion of regulation is controversial. Such a subject is necessarily controversial by reason of the fact that regulation was and is designed to exercise control, to a more or less degree, over the conduct of business. It is a natural consequence for people to react unfavorably, at least temporarily, to any restraint of their conduct, initiative, or industry. We as American people are, or at least were, fundamentally individualistic.

Before venturing into a discussion of depreciation in public utility rate making and the effects of inflation thereon, I think it well to speak briefly of the obligation of every public utility. The long-recognized obligation of every public utility is to render adequate, dependable service at reasonable and nondiscriminatory rates. Those enterprises "clothed with the public interest" are generally distinguishable as follows:

1. Those enjoying franchise.
2. Those operating under monopoly.
3. Those furnishing a service necessary to the public.

Public utilities fall into one or all of these categories.

THE theory of regulation, as here used, stemmed originally from the discovery, proved time and time again, that the very heavy capital investment necessary to render adequate service to the general public, such as that required and demanded of public utilities, was economically wasteful, resulting in higher service costs when rendered by competing companies requiring duplicate facilities; hence, a substitute for competition was designed. Ordinarily, little or no regulation is or should be required of an enterprise engaged in highly competitive business, but regulation has generally been adopted as the best substitute for competition in noncompetitive fields; that is, those operating under franchise or monopoly, though not to be construed as requiring the counterfeiting of the wasteful processes of actual competition. Control of capitalization and accounts, the granting of exclusive franchises, the requirements of certificates of convenience and necessity for construction and abandonment, the supervision of the conditions under which service is rendered, and the establishment of service standards all afford opportunities for closer approach to a theoretical ideal than is made by the imperfect competitive processes of actual economic life. All these factors enter into, or should enter into, the fair and effective regulation of utility enterprises.

Where, by regulation, the general public is protected against unreasonable charges for services rendered, the enterprise so regulated is not or should not be required to use its property for the benefit of the public without receiving just compensation for the services rendered by it.

THE public utility is entitled to such rates as will permit it to earn a return equal to that generally being made at the same time and in the same general environs and on investments in other business enterprises which are attended by corresponding risks and uncertainties. The return on investment should be

*Chairman, Arkansas Public Service Commission.

[1] 3 PUR NS 337.

reasonably sufficient to assure confidence in the financial soundness of the utility, and should be adequate under efficient and economical management to maintain and support its credit and to enable it to raise the money necessary for the proper discharge of its public duties and obligations.

Briefly stated another way, it is or should be as much the duty of public authorities — that is, commissions and regulatory bodies—to protect the public utility from enforced reduction of rates to such an extent that the utility may be precluded from earning a fair return on a fair valuation; but, on the other hand, it is likewise the duty of the same public authorities to hold utility rates down to the point that earnings will not be more than a fair return.

It seems to me that regulation, in its generally accepted sense, is a police function of the sovereign, by means of which the constitutents of the sovereign, who are granted special privileges by the sovereign, such as the exercise of monopolistic powers and the right of eminent domain, are required to adhere strictly to the terms of the contract by which the special privileges are granted. Needless to say, this implies that regulation should be reasonable and limited strictly to the purpose of securing compliance by such constitutents with the obligations of the contract.

Regulation was brought about by the necessity of requiring a monopolistic enterprise to perform the services which it contracted to perform, at rates and under service conditions which are reasonable and fair both to the enterprise and to the public. It necessarily follows, if those who accept the privileges of monopoly in a given field adhere strictly to the contract with the public, little or no regulation would be required. However, such is not always the case; in fact, it is the exception rather than the rule.

THE severeness with which regulatory rules and regulations are applied to public utilities depends, to a very large extent, upon the coöperation which the regulatory authority receives from the enterprise. The extent of regulation increases in inverse proportion to the decrease in coöperation received from the enterprise. There are no doubt many public utilities today which conduct their business in such manner as to require very little or no regulation. On the other hand, it is true today, as it was a few decades ago, that the accounting practices of some public utilities were conceived in an effort to conceal rather than reflect the true financial structure of the company; hence, our uniform system of accounts resulted. It is also true that the depreciation practices and policies of many companies were practiced for the sole benefit of the company and to the detriment of the public; hence, it was necessary for regulatory agencies to adopt standard depreciation rules.

Luther R. Nash states in the foreword to his work, entitled *Anatomy of Depreciation:*

> The standardization of public utility accounting in the United States is of comparatively recent origin. National uniformity was secured only about twenty years ago, but has now reached the point where, with one major exception, even its insignificant details are elaborately defined . . . the one exception to present standardization relates to depreciation accounting.

There are as many different approaches to, and applications of, depreciation accounting as there are authors and speakers on the subject.

I, for one in the regulatory field, am perfectly frank and ready to admit that rate making in the field of public utilities is not an exact science, and the depreciation practices are even less exact than rate making itself.

THIS brings us to consideration of definitions. There are prominent and influential people in regulatory circles who maintain, in effect, that depreciation and amortization of book costs are synonymous. Yet, this is not so either by the definitions in the dictionaries or in the applicable systems of accounts. I have concluded that, as to electric utility

depreciation, there is no better definition than that contained in the generally applicable systems of accounts.

You may recall that this definition came out of the Lindheimer Case (292 US 151), and is to the effect, quite sensibly it seems to me, that depreciation is the loss not restored by maintenance and against which insurance is not carried. It requires no elaboration or expert knowledge to show why this is so. Everyone has examples of this in his own personal affairs, yet it cannot be reduced to formulæ. It requires the application of judgment. It is management's function to decide when something should be replaced or repaired; that is, treated as depreciated or restored to an efficient status by maintenance. Management must of necessity delegate the power to make some of these decisions. Therefore, it does not follow that the weight given to various factors by the different individual subordinates of any particular management would always be the same, and that, consequently, the decision as to replacement or maintenance would be the same even in any one company. This is also without regard to other influences. For example, during the war shortages it was sometimes impossible either to replace or adequately to maintain certain equipment, yet much loss occurring during the war shortage period was made up by maintenance upon the availability of materials and men.

So it seems clear that it is impossible to dispense with judgment on the part of utility management. That being so, it is clear that no formula can integrate all the factors influencing the judgment of all levels of management. It should be equally apparent that no all-wise regulatory body can impose a single formula that is not in some respects purely arbitrary. In short, regulatory authorities have to use judgment also.

IT is when I am asked to discuss the depreciation component of the cost of utility service as it may be affected by inflationary forces that I find it necessary to define my terms and stick to what appears to me to be a common-sense, nontechnical approach. I know of no phase of regulatory practice that can be made more confusing by honest men, taking what to them are honest and logical approaches to the problem, than the subject of depreciation, whether it be under conditions of inflation, deflation, or recession. So it seems to me that I can best discuss the subject within the framework of the regulatory policies of my own commission—that is, the Arkansas Public Service Commission — as supported by the courts. The present policy of our commission with respect to electric utilities was initiated in 1944 after long investigation of and hearings upon the affairs and business of the largest electric utility in the state. Much testimony was heard; among other things, depreciation allowances.

It seems to me, from our experience and from the reported experience of others, that some simplification was in order and, I might add parenthetically, that further simplification of other aspects of particular accounting practices would be an economy to the companies themselves and hence, since they are regulated, to investors and consumers.

The use of net investment rate base, whether measured by invested capital or by net plant plus working capital, frequently does away with the necessity for the detailed plant records presently practiced, with the attendant cost of preparation and maintenance of such records. This problem cannot be satisfactorily solved, however, until certain jurisdictional questions are settled. I think that the electric utility business, for example, should be viewed as a continuing enterprise.

THIS is not necessarily so with respect to a wasting asset business, such as the natural gas business may be considered to be. The regulatory and economic aspects of the natural gas business are rapidly getting into such an involved state that they could rightly be characterized as a mess. The great increase in long pipelines from producing areas to distant markets is largely supported by the cost

of competitive fuels such as coal and oil. The impact of the activities of John L. Lewis on coal prices, accompanied by what are apparently necessary increases in freight rates, adds to the value of natural gas in distant markets and is responsible for increasing demands on gas reserves, which will hasten the day when they will be exhausted, to the detriment of producing areas which frequently have no other fuel. When coupled with the Federal Power Commission's regulatory policy of requiring dedicated reserves for substantially all of their requirements for a long period of time, it is easy to visualize a situation where there might be plenty of gas in producing areas, but it will all be dedicated to distant markets and none will be available to producing areas.

There are also other considerations, such as the different practices among the several states as to the regulation of industrial gas rates and the often-heard, comparatively new philosophy about "end use." Notwithstanding that every chemical use can be made of coal that can be made of natural gas, one hears little or nothing about "end use" of coal. In any event, the supply of natural gas, as distinguished from artificial, is not limitless, and the question always arises whether capital recovery in the form of depreciation or amortization shall be recognized in a different manner for such business where the period of assured gas supply is limited. On the other hand, the electric utilities can use, for a price, any kind of fuel, and, so long as the end of the supply is not in sight, may be viewed as a continuing business.

VIEWED as such, I think regulatory policy should be such that giving due regard to the interests of both customers and the company, depreciation and maintenance allowances should be large enough to enable the utility to keep its property as an efficient operating whole. This is clearly in the interest of both customers and investors. But the depreciation allowance should not be so arbitrarily large as to clearly impair the equities of either customer or investor. Such a policy requires judgment and, I suppose, no practice could be adopted that would not afford reason for some interested party to complain as to the quality of judgment used.

So we come to the application of our policy that depreciation is the loss not restored by maintenance. In Arkansas we have an allowance, based on history and judgment, for depreciation and maintenance and require that such amounts of the allowances as are not expended for maintenance be accrued as depreciation. We do not know whether the allowances we have prescribed are too high, too low, or just right. Neither does anyone else. Nor will they or we ever know until the day comes, if it ever does, when electric service is obsolete and the utility properties are abandoned and salvaged. Even atomic energy is, I understand, viewed as but another source of heat or fuel, so that it does not represent an influence that promises to outmode electric service or most of the equipment used to supply it.

Not being able to foresee that day, but keeping in mind the necessity for the preservation of the efficiency of facilities for the providing of adequate service and for the maintaining of the integrity of investments in and the credit of the companies for the purpose of attracting capital to serve expanding needs, we have allowed enough, in our judgment, for both depreciation and maintenance, and we retain jurisdiction to make such modifications as may seem to be required from time to time.

SUCH a policy obviously brings us face to face with the effects of inflation on the element of expense. Maintenance expenditures of necessity reflect current prices of material and labor. Increases in the unit cost of these elements to the extent they are not offset by improved practices, quality, or efficiency will, of course, operate to affect the amounts remaining for depreciation. We have never hesitated to make increases in allowances for maintenance and depreciation to offset higher labor and material costs reflected in the proportion of the total allowance

that is currently expended for maintenance.

This policy is now something over five years old, and allowances have been increased due to the effect of postwar inflation on maintenance expenditures. The utilities in our state have required large sums for expansion. In fact, the typical case would show postwar increases in capitalization up to the present time of as much as 100 per cent, and the end is not in sight. So the ability of the companies to attract capital does not appear to have been impaired. Except for the effect of fuel clauses, rates have not gone up, so there has been no penalty on the customers. It remains to be seen just what may happen if many of the events that could be imagined were developed. Contemplated in this connection is severe depression, resulting in the loss of large blocks of business for long periods of time. Obviously, those systems whose eggs are not all in one basket—that is, serving a wide diversity of different industrial businesses over a wide area—are less vulnerable than those small concentrated systems frequently largely dependent upon a very narrow range of economic activity.

It seems to me that our policies have been tested and not found wanting. They have certainly saved time and expense to all the parties and interests; namely, the cost and delay of long, arduous hearings which bear adversely on all parties—customers, investors, and the general public. Our utilities are growing and prosperous. Their ratepayers are getting more and better service as fast as it can physically be supplied. It has not yet been necessary to generally increase service rates in our jurisdiction. If and when it may be necessary it will probably be due to external influences beyond the control of either the management or the commission or state government policies. It will, in my opinion, be due to the influence of national policies as to wage rates and taxes and those bearing on the cost of money. Telephone rates, where labor represents a large portion of the cost of service, afford an example of the impact of national policies inflating the cost of utility service. Another glaring example of an influence due to national policy is the capitalization of taxes. Your immediate reaction may be to abhor and immediately deny that any utility is or should be capitalizing taxes. If such is your reaction, in my opinion you are mistaken. A study of the annual reports of corporations which supply utility equipment and material, such as General Motors, Westinghouse, U. S. Steel, and General Electric, reveals some extremely interesting facts.

They disclose the extent to which the selling price of their products has been tax-burdened. In each instance the conclusion is obvious and inescapable that new capital additions to plant are saturated with taxes today. For discussion we may use General Motors' statistics. They are taken from a discussion entitled "Are Profits Too High?" by Executive Vice President M. E. Coyle. As all of you know, General Motors is one of the major Diesel locomotive producers. The total value of its products in 1948, including excise tax, was $4,930,000,000. Of this amount, $2,368,000,000 was paid for goods and services General Motors purchased. General Motors' payroll was $1,368,000,000, and to this we must add the payroll tax. The total tax bill for payroll, corporate, and excise taxes included in the $4,930,000,000 was $649,000,000, or over 14 cents out of every consumer dollar; and this figure does not include the taxes involved in the items which General Motors purchased from and paid to the steel industry, tire industries, and others. Sales tax, common in many states, is another item to be added. All of these taxes obviously become a part of the cost of goods and whoever buys them in turn must capitalize them. Thus, the railroad company when buying a Diesel locomotive of necessity finds itself capitalizing a substantial part of the cost which is represented by these taxes. The same is true of the purchaser of General Motors' products; or, in fact, any other manufacturer.

If inflation results in increases in price

levels, as it does, obviously it will result in increased cost to public utilities because they do not operate in an economic vacuum. To date the effect has been minimized by them, however, by reason of greater use of facilities brought about by increased service demands, more mechanization, and the better use of man power. With the growth of business and the evolution of better methods, not much upward adjustment in rates has been necessary. This has been especially true in those cases where the impact of higher fuel or other costs has been avoided or where fuel or other escalator adjustment clauses have been included in the rate schedules to compensate for such increased cost. Such clauses have not injured the utility customers because they are usually applied only to the larger customers where, by reason of the impact of the same inflationary forces on cost and selling prices of the products of such customers, the cost of purchased utility service has more nearly approached its value measured in terms of the costs of alternatives. Just what the effect will be on costs that will accompany the use of greatly expanded facilities now being added by utilities will depend so much upon the relative use, efficiency, and service demands, that it can hardly be adequately appraised in a general way. Broadly speaking, however, there seems little cause for concern. Today's editions are the best engineers of any in the industry's history, and may be expected to contribute their full share to the economy. In short, it would not seem to require much analysis to show that in an industry whose earnings are closely regulated, changes in costs of elements making up the costs of service must, in some way, be reflected by automatic or other means in the revenues received for that service.

LIKEWISE, it would not seem too difficult to show that as the demands for service are growing, as they are in the utility field, the customers are appraising the value of the service to be at least as much as is being charged for it. Since the demand continues, even in those rare cases where rate increases have taken place — whether automatically or by means of fuel or other adjustment clauses or otherwise—it would seem to be demonstrative that up to now, at least, costs of service, as measured by rates therefor, are not above the value placed upon it by the customers. I believe that utility management, by and large, is conscious of the necessity of maintaining its competitive position and is doing all it can reasonably do to offset the influences of inflation on both construction and operating costs. For, after all, although it may enjoy a monopoly in its particular field, much of its business is done in competition with other sources or forms of service.

The substantial increase in price levels since 1939 presents to all industry, but particularly to the utility industry, a depreciation problem of major proportions. For instance, a transformer which may have a life of thirty years, may have cost X dollars in 1939, while its replacement may cost 2X dollars in 1949.

If depreciation allowances are predicated solely upon original cost and are not allowed to be increased because of price level changes, it obviously will be impossible for the utility to recover, over the life of the transformer purchased in 1939, sufficient depreciation dollars to replace that transformer in 1969, assuming that we continue on the present plateau of high prices. To accomplish this latter, however, is equivalent to going back to a "value" rate base, as compared to an "investment" rate base.

OF course, I recognize that the most recent official pronouncement of the American Institute of Accountants is to the effect that depreciation must be predicated upon original cost and that also is the law of the land, as expressed in the decision of our Supreme Court, speaking through Mr. Justice Douglas, in the Hope Natural Gas Company Case; but the problem still exists, even though I am not prepared to suggest either a general or a specific solution. What we have done is consistent with the use of an investment rate base. The use of another

type, such as reproduction less depreciation, involves entirely different treatment.

As I have already indicated, this problem can be met only by the exercise of sound judgment by management and regulatory authorities. The existence and reality of the problem must be recognized by regulatory authorities in the light of conditions as they exist and as they may change from time to time. What I am saying, in substance, is this: Utility managements must face facts, but regulatory agencies must also face facts. And I mean all facts, not merely the facts recorded by the bookkeeper, but also the even more important economic facts with which the utility industry, like all industry, must deal.

EDITOR'S NOTE: *Part II of the foregoing Appendix will be published in the next issue of* PUBLIC UTILITIES FORTNIGHTLY, *which will be out November 24th. Part II will contain addresses at the St. Louis meeting of the Section of Public Utility Law of the American Bar Association given by the following speakers: Paul Grady of the firm of Price, Waterhouse & Co., New York city; Representative Henry M. Jackson, Democrat of Washington; and J. Kenneth Cheadle of the Spokane, Washington, bar. Among the foregoing addresses delivered at the September 5th session of the Section of Public Utility Law, a brief extemporaneous address by Oswald Ryan, vice chairman of the Civil Aeronautics Board, was omitted. The general subject of his address, however, has been developed by Commissioner Ryan in a more extensive form for publication as an original article in the November 24th issue of the* FORTNIGHTLY, *where it will be found in the regular feature section.*

Titles and Index

Preprints in This Issue of Cases to Appear in
PUBLIC UTILITIES REPORTS

TITLES

INDEX

WYOMING PUBLIC SERVICE COMMISSION

Re Little Goose Distributing Company et al.

Docket No. 9138
August 29, 1949

APPLICATION *for approval of sale of electric properties and certificates to rural electrification association; denied.*

Consolidation, merger, and sale, § 36 — Basis for denial — Nonexistence of certificate.

1. The nonexistence of a certificate authorizing a company distributing electricity to operate as an electric utility constitutes sufficient grounds for denial of an application for authority to sell the distribution company's facilities and operating certificate to a rural electrification association, since the Commission cannot authorize the transfer of a certificate which does not exist, p. 68.

Public utilities, § 58 — Electric distribution agency — Service to stockholders only.

2. A company organized for the purpose of distributing electricity to its stockholders only, as a nonprofit organization, actually confining its service to stockholders, operating within the service area of a certificated electric utility company upon which it has been entirely dependent for its supply, and which has never filed an application for a certificate to operate as a utility in its own right, is not a public utility company, p. 71.

Consolidation, merger, and sale, § 27 — Detriment to competitor — Due process of law.

3. A company engaged in the distribution of electricity and obtaining its supply from, and operating within the certificated area of, a privately owned and operated electric utility, should not be authorized to sell its property to a rural electrification association where the effect would be to segregate the territory being served by it from the certificate of the electric utility and assign the same to the rural association, which would amount to the taking of the electric utility's property without due process of law, p. 72.

Monopoly and competition, § 2 — Public interest — Electric utilities.

4. To permit two utilities to serve a small territory which could be adequately served by one company already authorized to serve would be inconsistent with the public interest, p. 72.

Consolidation, merger, and sale, § 19 — Factors affecting approval — Public interest.

5. The Commission, in passing upon an application for authority to sell utility operating rights and facilities, should determine whether the transferee is fit, willing, and able to operate the properties in the interest of consumers served thereby and whether the proposed transfer will be consistent with the public interest, p. 72.

Consolidation, merger, and sale, § 18 — Electric distribution facilities — Privately owned and operated company as purchaser.

Statement that the properties and operating rights of a company distributing electricity should be sold to the certificated and privately owned and operated public utility company supplying it with energy rather than to a rural electrification association, where the seller is not a self-sufficient, independent entity, where its physical assets are acceptable to either the association or the public utility company for an identical consideration, and where, if it sells to the public utility company, the property will remain a taxable asset to the community, county, and state, p. 73.

Public utilities, § 44 — Test of status.

Statement, in dissenting opinion, that a company actually engaged in the sale and distribution of electric energy to the public within an established and recognized territory, which has filed rate schedules and annual reports with the Commission, which has been assessed by the state board of equalization as a public utility and has paid taxes as such, which has been told by the Commission chairman that it is a public utility and that it holds a certificate, and which has conducted its activities in reliance on the Commission statement, is a public utility, p. 74.

(HUDSON, Commissioner, dissents.)

By the COMMISSION: On February 16, 1949, the Little Goose Distributing Company, Big Horn, Wyoming, and the Sheridan-Johnson Rural Electrification Association, Sheridan, Wyoming, filed herein a joint application whereby they seek an order of the Commission approving a contract entered into between them on February 7, 1949, providing for the sale and transfer of certain described electric properties of the former to the latter upon the terms and conditions therein contained; and for a further order of the Commission assigning and transferring the certificate of public convenience and necessity of said Little Goose Distributing Company (hereinafter called the "seller") to said Sheridan-Johnson Rural Electrification Association (hereinafter referred to as the "purchaser").

Subsequent to the filing of said joint application and on February 20, 1949, the Commission entered its order in this proceeding allowing all interested parties until March 15, 1949, within which to file objections to said application. On March 14, 1949, and within the time fixed by said order, the Montana-Dakota Utilities Company, Sheridan, Wyoming, filed herein objections to said application. Thereupon the Commission entered an order in said matter assigning same for hearing before the Commission in the district court room, Sheridan county court house, Sheridan, Wyoming, on April 12, 1949, at 9:30 o'clock A.M. Applicants appeared at the time and place of said hearing by and through their respective attorneys, H. Glenn Kingsley, and Phillip S. Garbutt, both of Sheridan, Wyoming. Protestant above named appeared by and through its attorneys, William D. Redle, Sheridan, Wyoming, and Earl Isensee, Minneapolis, Minnesota. Whereupon evidence, both oral and documentary was adduced, offered, and received in support of the issues as defined by said pleadings and the hearing concluded.

The Commission now having duly considered said application, the objections thereto, the record and file herein, and other files and records of the Commission relating thereto, the statements and representations of counsel and being fully informed in the premises now enters its opinion and findings herein as follows:

During the year 1929, a number of ranchers residing in the Big Horn community formed a Wyoming corporation called the Little Goose *Utilities* Company primarily for the purpose of providing themselves with electric energy at their respective ranch properties for light and power purposes. Immediately after this corporation was organized it commenced the construction of a hydroelectric generating plant on Little Goose creek in the Big Horn canyon and an electric transmission line therefrom to privately owned connecting distribution lines leading to the ranches of its stockholders. During the construction of said electric service facilities, the incorporators of said corporation decided that it should make its service available to the general public in said community instead of confining the same to themselves and accordingly it filed with the Commission on November 4, 1929, an application for a certificate of public convenience and necessity authorizing it to complete its generating plant and thereafter sell and distribute electric energy to the public within said area. It appears from the records of the Commission that the decision of the directorate of said utility company to offer its service to the public within said community resulted from pressure exerted upon it by numerous residents of the town of Big Horn who were requesting the corporation to extend its transmission facilities to said town, for the purpose of serving the inhabitants thereof with electric current for their individual needs. (See Docket No. 698,—Records of Commission.) The Commission granted said application and by order entered in said Docket No. 698 on December 10, 1929 it issued to said Little Goose *Utilities* Company a certificate of public convenience and necessity authorizing it to construct, operate, and maintain an electric plant and transmission system for the purpose of supplying electric energy for light, power, and other uses to consumers residing within the territory described as follows:

"Beginning at the Northeast corner of Section 9 in Township 55 North, Range 86, running thence directly east in section line to the northwest corner of Section 9 in Township 55 North, Range 83, thence south on section line to the northeast corner of Section 20 in Township 54 North, Range 83, thence west on section line to the northwest corner of Section 19, Township 54 North, Range 83; thence south on Section line to the county line between the counties of Sheridan and Johnson; thence west on said county line to the point where said county line intersects the west line of Section 22, Township 53 North, Range 86; thence north on the section line to the point of beginning; all West of the Sixth Principal Meridian, Wyoming."

The town of Big Horn is located in the heart of the territory above described. This corporation completed its generating plant and began operating as an electric public utility within said territory, pursuant to authority granted it by said certificate, during the month of April, 1930.

The organization history of the Little Goose *Distributing* Company is not too clear as our records do not reveal that it has ever filed with the Commission an application for a certificate of public convenience and necessity, or that such a certificate has ever been issued to it. The record herein, however, as well as the articles of incorporation of said company filed in the office of the secretary of state, show that it was incorporated under the laws of the state of Wyoming during the month of July, 1931, for the purpose of engaging in the business of purchasing, distributing, and selling electricity to its *stockholders* and *members* for light and power purposes.

[1] Montana-Dakota Utilities Company (hereinafter called the "protestant"), alleges in paragraph X of its objections that the seller, Little Goose *Distributing* Company, does not have a certificate authorizing it to serve the territory involved in this proceeding. The record contains a letter identified as applicants Exhibit No. 4, dated February 15, 1932, and written by one, F. Chatterton who was then chairman of the Commission to Maurice L. Cone, attorney of Sheridan, Wyoming, now deceased, relative to the status of the seller for taxation purposes. It states: "It (the seller) holds a certificate of public convenience and necessity from the Public Service Commission and under the statutes we hold that it is a utility subject to assessment for taxation." It is quite apparent to us that the former chairman of the Commission had in mind the Little Goose *Utilities* Company, when he dictated said communication because our files, as well as the minutes of the Commission are entirely devoid of any information relative to the utility status of seller herein at that time or thereafter. LeRoy Sackett, one of the original incorporators of the seller corporation testified that he presumed it possessed a certificate. Margaret Powers, secretary of said corporation testified that she was familiar with its records and that she had never found a certificate among them. Certainly a company would have its certificate authorizing it to operate as a public utility among its records if same existed. We are not convinced by this evidence that seller corporation holds a certificate of public convenience and necessity heretofore issued to it by the Commission as it would be an anomaly for the Commission to issue a certificate to a utility authorizing it to construct an electric distribution system for the purpose of serving a territory already allocated to another utility without notice or hearing, or some recorded evidence of the action of the Commission with reference thereto. We may therefore logically conclude that the nonexistence of a certificate authorizing the seller to operate as an electric utility within said municipality constitutes sufficient grounds for the denial of said application because it is axiomatic, as we attempted to point out to applicant's counsel during pre-trial correspondence, that we cannot authorize the transfer and assignment of a certificate which does not exist. We might, however, seem to be remiss in our consideration of this matter if we predicated our decision herein upon what has been already stated, without considering other fundamentals of utility regulation and whether upon the evidence as a whole, applicants may be granted any affirmative relief.

The seller herein does not own any generating equipment. Its property consists of a transmission line extending through the town of Big Horn and certain service facilities incident thereto. In the main, its consumers are served through distribution lines and meters owned by them which connect with the transmission line of the seller. This distributing company is now purchasing its current from protestant under a term contract and it sells same to its stockholders at fluctuating rates which ordinarily produce sufficient revenue to cover the cost thereof, pay the salary of its secretary, and defray the expense of maintaining its transmission system. It states that its consumer stockholders are dissatisfied with the present service provided for them. The record herein is replete with evidence relating to motors which were "burned out" while operating in connection with electric appliances or power machinery. Seller and protestant seem to concede that this damage to consumers property was caused by low voltage; however, each blames the other—the seller contending that low-voltage current is being furnished it by protestant and protestant in turn claiming the low-voltage results from inadequacies in the distribution sytsem of the seller. The record is not clear as to who is primarily responsible for the inadequate service, although voltage survey tests made by protestant and received in evidence indicate that it maintains adequate and steady voltage at its point of delivery to the seller. These disputes are generally present when the joint facilities of two companies are employed in serving any group of consumers. It is not necessary for us to decide here where the fault lies, as this is not a complaint matter and the fixing of responsibility for inadequate service is not one of the issues encompassed by the pleadings in this transfer proceeding, but rather a collateral development.

The stockholders of seller held a meeting on February 4, 1949, at which they decided to accept the offer of the Sheridan-Johnson Rural Electrification Association to purchase their physical electric properties. A purchase and sale contract was then entered into between said corporations in accordance with the wishes of a majority of said stockholders as expressed at said meeting; and the execution of said contract precipitated the filing of the instant application. An offer of protestant herein to purchase all of the electric properties of the seller and its stockholders for the sum of $4,000 was discussed at the stockholders' meeting and rejected. According to the evidence the stockholders accepted the offer of purchaser because they were dissatisfied with the service being rendered their corporation by protestant and because the purchaser promised to rehabilitate their existing distribution system and provide them with adequate service. These promises are not contained in the purchase contract. The testimony, however, indicates that the stockholders were influenced in their decision to sell said properties to the purchaser by potential rural patrons of the latter residing within its certificated territory who apparently were promised electric service by the purchaser when feasibility therefor was established by the acquisition of said distribution system.

The purchaser proposes to construct approximately 9 miles of new line in order to serve consumers residing in

the territory now being served by the seller in the manner above outlined. All of the proposed new line will be constructed within the certificated area of protestant and will parallel in part an existing line owned and now used by it in delivering current to the seller which was constructed by its predecessor in interest, Sheridan County Electric Company, pursuant to a certificate issued to the latter by the Commission in Docket No. 1849 on September 19, 1934. The cost of said line will amount to approximately $15,000 and its construction will result in a duplication of facilities to serve a very small area. This construction cost and resulting duplication of facilities and service will finally be reflected in the rate structure of the purchaser and saddled upon the ratepayers who are now sponsoring the sale and purchase of said distribution system.

Sheridan-Johnson Rural Electrification Association, purchaser herein, is a nonprofit corporation organized under the laws of the state of Wyoming having its principal place of business at Sheridan. It was issued a certificate by the Commission in Docket No. 9073 on December 5, 1945 which authorizes it to construct, operate, and maintain electric transmission and distribution lines in *rural* areas in Campbell, Johnson and Sheridan counties, with exceptions. Its authorized service area overlaps the certificated territory of protestant at certain places along the borderline thereof; however, it is not authorized to serve any of the territory originally alloted to Little Goose *Utilities* Company; and the boundary line of its closest approved rural area is located aproximately 10 miles from the area now being served by the seller. The purchaser contends that the acquisition of the properties involved herein and the merger thereof into its present electric system is incidental to its main objective—that is, the expansion of its lines to serve rural consumers; that it needs said properties and the authority to operate same in the territory served by the seller to establish the density and feasibility required for the approval of a loan by the administrator of the National Rural Electrification Administration, which if approved, will release public funds necessary for the construction of its transmission lines to serve a large number of rural members residing within its alloted territory. Purchaser apparently ignores the provisions of § 4 of the Federal Rural Electrification Act of 1936 (§ 904, 7 USCA) which provide:

"The administrator is authorized and empowered from the sums hereinbefore authorized to make loans to persons, corporations, . . . peoples' utility districts and coöperative, nonprofit, or limited-dividend associations organized under the laws of any state or territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines, or systems for the furnishing of electric energy to persons in rural areas *who are not receiving central station service*. . . ." (Italics supplied.)

As heretofore pointed out herein, the town of Big Horn is not within the authorized service area of purchaser. It is therefore not purchasing the assets of a small utility which lies in the path of its proposed rural expansion. In fact, the facilities which it seeks to acquire and the territory it proposes to serve thereby are located within the

certificated territory of a utility (protestant herein) that is likewise in the process of expanding its service to meet the needs of farmers and ranchers residing therein and also furnishing electric energy to the seller and purchaser from its central generating plant. It seems to us that the proposed acquisition of said isolated distribution system is extraordinary rather than marginal or incidental. Purchaser proposes to charge the stockholders of seller a lower rate than it is now collecting from its rural patrons. The impact of such irregularity, confusion, duplication, and proposed territorial maladjustment, if approved, will no doubt come to rest unfavorably in the rate structure of both the purchaser and protestant. We feel that practical rather than a formulated hypothetical density is a primary requirement of any utility and that same is conducive to, and necessary for a uniform and reasonable rate structure in the public interest.

[2] Following its organization, seller purchased its electric current from Little Goose *Utilities* Company, pursuant to a contract between said corporations dated August 4, 1931. This contract is not in the record but same was submitted to the Commission at its request by Attorney H. Glenn Kingsley as a posthearing exhibit. Pursuant to this agreement seller was assisted financially by the utility company in the construction of its distribution system and provision is made therein for the joint use thereof by the contracting parties. It fixes the territory to be served by the seller and it provides that maximum rates charged consumers of both companies shall be uniform. The import of this agreement is that seller is in all things subservient to the *Utilities* Company; that the facilities of the seller, constructed with money advanced by the utilities company, were to be used as a conduit whereby the latter company would furnish electricity to consumers within its service area in the manner they desired. We believe the seller never intended to function as an independent public utility but merely as a distributing agency of the certificated utilities company. This is borne out by the following statement contained in most of its Annual Reports: "This company is organized for the purpose of distributing electric energy to its stockholders only as a nonprofit organization." The fact that it in substance confines its service to stockholders and because it has always operated within the service area of a certificated utility upon which it has been dependent, not only confirms our belief but undoubtedly explains why it has never filed an application for a certificate to operate as a utility in its own right.

Seller and the utilities company began purchasing current from the Sheridan County Electric Company, under contract, during the year 1934 due to failure of the generating equipment of the latter caused by the lowering of the water in Little Goose creek. At this time the property rights of seller and the utilities company were adjusted (see applicants Exhibit No. 2); and, as aforesaid, Sheridan County Electric Company was authorized by the Commission to extend its lines to serve them. During the year 1938, the utilities company was dissolved and its property and certificate was acquired by the Sheridan County Electric Company pursuant to order of the Commission entered in Docket No. 698

on March 21, 1938. After this transfer, Sheridan County Electric Company continued to serve the seller and its stockholders in the same manner as it had been served by the utilities company. The seller is now being served by protestant who acquired all of the capital stock, properties, certificate and contracts of the Sheridan County Electric Company pursuant to order entered by the Commission in Docket No. 9102 on July 9, 1947.

In addition to the reasons hereinbefore assigned, seller desires to dispose of its depreciated electric properties because its stockholders under the purchase contract may retain their private lines if they elect to do so; because it has no funds in its depreciated reserve account to rehabilitate, repair or rebuild its transmission system; because its stockholders will become members of another nonprofit organization; and because it desires to assist rural members of the purchaser in their efforts to secure electric service. It is apparent from the reasons assigned for said proposed transfer that seller is unmindful of statutory provisions or any of the standards of utility regulation. It now assumes the position of an electric utility claiming that it has a certificate authorizing it to serve the public within a defined area; that its status as such has been recognized by protestant and its predecessors in interest by the service contracts which the latter has entered into with it; that it has been recognized by the Commission as a utility because it has been taxed as such. If it is a utility—a question which we do not feel we are required to decide in this proceeding, it is operating within the certificated territory of another utility without the sanction or approval of the Commission. We hold that it has no certificate and hence nothing to transfer except its electric properties which we assume are not desirable for the use of the purchaser unless they may lawfully be operated in the territory now served by the seller.

[3, 4] By its application the seller in substance requests the Commission to segregate the territory it now serves from the certificate of protestant and assign the same to the purchaser, or else, authorize the purchaser to compete with protestant in serving the same. It appears to us that the granting of the former request would amount to taking protestant property without due process of law and by granting the latter we would be permitting two utilities to serve a small territory which can be adequately served by the one now authorized to serve the same. To permit two utilities to serve such a small territory certainly would be inconsistent with the public interest.

[5] In a transfer proceeding the Commission should determine, among other things, whether the transferee is fit, willing, and able to operate the properties involved in the interest of consumers served thereby and whether the proposed transfer will be consistent with the public interest. Purchaser intends to pay for the properties involved herein out of the proceeds of a government loan which has not been approved. The approval thereof apparently hinges upon the decision of the Commission in this matter. It may never be approved and consequently some doubt exists as to applicant's financial ability to acquire said distribution system at this time.

During the hearing protestant offered to purchase the distribution system of the seller upon the same terms

and conditions as those set forth in the purchase contract involved herein. In its objections it alleges that the town of Big Horn is located within its certificated territory; that it is serving same from its central station generating plant; that the distribution system of the seller is located in the midst of and surrounded by its rural line system; that it is ready, willing, and able adequately to serve the stockholders of seller with its own facilities if they are now dissatisfied with the present service arrangement, as well as all feasible rural consumers, within its service area; that it will serve said stockholders at the same rates it charges consumers in other like areas; that if it acquires the property involved herein it is prepared to give immediate service to the consumers served thereby as its service facilities now extend through the corporate limits of Big Horn; that purchaser is not authorized by law to provide service to localities receiving central station power from other companies; that the granting of said application will breach its contract with purchaser which provides that purchaser shall serve only consumers to whom service is not available from the lines of protestant; and that the proposed purchase and transfer is not practical and contrary to the best interest of eighty-one customers now being served by seller. All of these allegations find ample support in the evidence of record. Seller is not a self-sufficient independent entity. Its physical assets are acceptable to either purchaser or protestant for an identical consideration. Under protestant's offer it will remain a taxable asset to the community, county, and state. It occurs to us that its properties should be absorbed by the certificated, dominating, and surrounding protestant utility, rather than by purchaser herein.

The record in this proceeding is voluminous. We have summarized and discussed the evidence at length to show that the granting of the application regardless of the possession of a certificate by the seller will be inconsistent with the public interest. Under the circumstances of record the granting of the application would require arbitrary undue process; confirm a condition patently unsatisfactory, by reason of its co-dominion nature; difficult of responsibility attachment; incompatible with sound economic administration; and contrary to underlying statutory principles and common practice of inter-utility regulation. We hold that in the absence of substantial provocation, the Commission cannot, in conscience, justice or propriety, commit an unsound, unrequited, let alone an unlawful act within the realm of one utility in order to facilitate an ardent desire of another; and that said application should in all things be denied.

An order will be entered herein accordingly.

HUDSON, Commissioner, dissenting: I dissent from the foregoing opinion. This is a transfer proceeding whereby the Little Goose Distributing Company seeks an order of the Commission approving the sale and transfer of its electric properties and operating rights to the Sheridan-Johnson Rural Electrification Association. The statutes relating to public utilities (Chap 64, WCS, 1945, as amended) are silent as to what matters should be considered by the Commission in a proceeding of this character, or the

procedure to be followed therein. Subparagraph 4 of Rule 9 of the Rules of Practice of the Commission merely provides that any utility desiring to sell, lease, or otherwise transfer its line, plant, business, or other property, or any part thereof used in rendering service to the public shall file an application with the Commission for authority to do so substantially in the form prescribed by it. The form of application to be followed and filed by a utility desiring to transfer its properties is set forth on page 20 of said Rules. This form, among other things, requires the petitioner (transferor) to state the effect of the proposed transfer *upon its service*. This indicates that the Commission should consider whether the service being rendered by the transferor will be impaired or *improved* by the proposed transfer. In other words, the Commission should primarily concern itself with the public interest in passing on applications of this nature.

The majority opinion states that Little Goose Distributing Company does not hold a certificate of public convenience and necessity; that it has nothing to transfer except its physical properties; and that it is not necessary in this proceeding to decide whether said company is a public utility. It appears to me that the utility status of said applicant is one of the primary issues herein and that same should be determined in this proceeding. This distributing company has been actively engaged in the sale and distribution of electric energy to the public within an established and recognized territory for the past seventeen years. The record herein contains a letter written by a former chairman of the Commission to its attorney shortly after its organization stating that it is a public utility and that it holds a certificate of public convenience and necessity. Relying thereon it has conducted its activities accordingly. The Commission has required said company to file rate schedules and annual reports, as provided by law and its rules. The corporation has been assessed by the state board of equalization as a public utility and it has paid taxes as such. Protestant and its predecessors in interest have contracted and dealt with said distributing company as a utility. They have recognized and respected the territory served by it. According to all of the standard tests enumerated by our supreme court in the case of Rural Electric Co. v. State Board of Equalization (1942) 57 Wyo 451, 42 PUR NS 153, 120 P2d 741, it is a public utility and must be so considered in this proceeding. Upon these facts the Commission is now estopped to deny that this distributing company is not lawfully authorized to operate as an electric utility within the town of Big Horn and environs, even though it does not actually possess a certificate of public convenience and necessity.

The majority opinion treats the matter of inadequate service now being rendered consumers of the seller as a collateral issue. It states that the record is not clear as to who is responsible for same; and that it is not necessary to decide said issue as this is not a complaint matter. As stated above, I think the service now being rendered consumers of the seller is one of the most important things to be considered in this proceeding. The Little Goose Distributing Company does not own or operate a generating plant. It purchases its current from protestant. It is a common practice

among many electric utilities to purchase electricity for resale from other utilities or Federal agencies. The evidence clearly indicates to me that protestant is not supplying said corporation with current of sufficient voltage pursuant to contract to take care of the needs of its consumers; and that the size, type, and design of protestant's present transmission line makes it impossible for it to do so. Little Goose Distributing Company has requested protestant to supply it with adequate voltage. Protestant has made no effort to improve its transmission line and under its offer to purchase seller's properties made at the hearing it does not indicate what improvements, if any, will be made therein, or in the distribution lines and facilities of the seller in order to provide consumers of the latter with adequate service.

In an effort to seek relief, the stockholders of Little Goose Distributing Company have voted to sell their electric properties to the Sheridan-Johnson Rural Electrification Association who has promised to rehabilitate their distribution system and to provide them with adequate service at the same rates charged by protestant within like territory. These rates may be lower than those charged its rural consumers; however, this is not unusual. The cost of serving rural communities with electricity is always higher than the cost of serving an area of greater density in population and the Commission has recognized this fact in approving rate structures of other electric utilities.

Protestant has never *directly* served the consumers affected by the proposed transfer with its *own* facilities. It has satisfied itself with the sale of electricity to the distributing company. It has apparently realized the dependency of the latter upon it for its source of supply and no doubt it has been waiting for said company to offer its property to it at a nominal figure as a final effort to obtain better service. The granting of the application will not impair the efficiency of protestant as a public utility as it will continue to sell electricity to the purchaser for the purpose of resale to the consumers within the service area of the seller. The approval of the proposed transfer will simply permit another utility to serve same more efficiently without any deleterious effect upon protestant. It will not sustain any financial loss or the loss of any of its properties as it can arrange to deliver current to the purchaser at the present point of delivery to the seller thus eliminating the necessity of constructing any new lines by the purchaser to serve the territory involved. In any event, its transmission line will still be used to serve rural patrons within said community.

The majority opinion points out that under the Rural Electrification Act of 1936 it may be unlawful for purchaser to serve the territory now occupied by Little Goose Distributing Company. This territory is not being *directly* served from the central power station of protestant but by the distributing company who does not own any generating equipment. The loan application of purchaser for Federal funds with which to purchase seller's properties has been approved by the government. A "stop-order" has been placed against said funds pending the approval of this application by the Commission. The government apparently does not consider the proposed acquisition unlawful. Moreover

it is not the province of the Commission to speculate on the interpretation of Federal laws.

The granting of the application will be in conformity with the law. It will be consistent with the public interest because the eighty-one consumers of seller will be afforded a more adequate service; and it will release government funds with which to provide approximately 300 rural residents of the Big Horn community and adjacent territory with electric service without affecting in any manner the operating authority of protestant utility who has neglected to serve the territory involved directly and who has refused to improve the service to the distributing company.

I conclude that the majority opinion is not supported by the evidence; that same is contrary to the law; and that it denies to the people of Big Horn and their rural neighbors the benefits which Congress granted them by the Rural Electrification Act of 1936.

DISTRICT OF COLUMBIA PUBLIC UTILITIES COMMISSION

Harry Katz et al.

v.

Chesapeake & Potomac Telephone Company

P.U.C. No. 1812/41, Formal Case No. 387, Order No. 3573
August 22, 1949

PETITION *by subscriber to cancel or suspend telephone tariff provision for service denial; dismissed. Application for reconsideration denied September 2, 1949.*

Service, § 134 — Rule as to denial — Unlawful use.

1. The question to be determined in a proceeding involving service discontinuance pursuant to a telephone tariff authorizing discontinuance upon notice of the use of the telephone to violate the law is whether or not the company had probable cause to believe that its facilities were being used, or were to be used, in violation of law, and the propriety of the application of the tariff, p. 81.

Commissions, § 28 — Power to make judicial determination.

2. It is not the function, nor is it within the power, of the Commission to make judicial determinations, p. 81.

Service, § 134 — Telephones — Rule authorizing denial — Unlawful use.

3. In a proceeding to test the propriety of a tariff authorizing the discontinuance of telephone service upon notice or discovery of unlawful use, the guilt or innocence of the subscribers is not a question before the Commission, p. 81.

Service, § 134 — Rules — Service discontinuance.

4. It is not proper for the Commission to delay acceptance of approval of a telephone tariff provision, authorizing a utility to discontinue service upon

notice of discovery of unlawful use of a telephone, until a court has determined the guilt or innocence of the parties questioning the validity of the tariff, since such delay would in no wise be determinative of the question raised as to the reasonableness and necessity of this provision, p. 81.

Service, § 134 — Telephones — Validity of tariff — Discontinuance for unlawful use.

5. A telephone tariff providing that if any law enforcement agency acting within its jurisdiction advises that service is being used or will be used in violation of law, or if the company receives other evidence that such service is being or will be so used, service will be refused, is valid, consistent with the public interest, and in no degree a denial of due process of law, p. 82.

Service, § 134 — Telephones — Denial for unlawful use.

Statement that a telephone company may not refuse to furnish telephone service because of mere suspicion or belief that its facilities are being used or will be used for unlawful purposes, p. 82.

By the COMMISSION: On March 18, 1949, The Chesapeake and Potomac Telephone Company (the "Company") presented to this Commission the Fifth Revision of Sheet 3 of its Tariff P.U.C.–D.C. No. 3, to become effective on April 18, 1949. This tariff covers the general rules and regulations under which service is furnished.

The revision to Tariff No. 3 is quoted below:

"17. The service is furnished subject to the condition that it will not be used for an unlawful purpose. Service will not be furnished if any law enforcement agency, acting within its jurisdiction, advises that such service is being used or will be used in violation of law, or if the telephone company receives other evidence that such service is being or will be so used."

This Commission, on March 31, 1949, accepted the foregoing revision for filing, and, as of April 18, 1949, it became a part of the effective tariff for application to the operations of the Company within the District of Columbia.

On April 14, 1949, Harry Katz and Bertha B. Katz filed with this Commission a petition requesting that the tariff provision cited above, or any rule or practice of the Company consistent therewith, be canceled, suspended, or disallowed.

A formal public hearing was held on this matter on May 6, 1949, attended by counsel for the company, counsel for the petitioners, John L. Ingoldsby and Myron G. Ehrlich, and people's counsel.

Nature of Petition

In their petition, Harry Katz and Bertha B. Katz made the following representations:

(1) That they are citizens of the United States and residents of the District of Columbia, residing at 3169 Walbridge Place, N. W.

(2) That they are subscribers of The Chesapeake and Potomac Telephone Company and have assigned to them telephone number Adams 7738.

(3) That on or about the first day of April, 1949, they received the following notification from The Chesapeake and Potomac Telephone Company:

"March 30, 1949

"Dear Mr. Katz:

"We have been advised by the United States Attorney for the District of Columbia that his office is in possession of competent evidence that the following telephone, Adams 7738, furnished you at 3169 Walbridge Place, N. W., Washington, D. C., is being used in violation of the statutes prohibiting gambling in the District of Columbia, and he has requested our company to disconnect this telephone equipment and discontinue such telephone service.

"In compliance with this request, you are hereby notified that the above-mentioned telephone will be disconnected and such telephone service discontinued at 11:00 A. M. on Wednesday, April 6, 1949.

"Very truly yours,
(sgd) C. B. Schultz,
Manager."

(4) That the threatened removal of petitioners' telephone service is pursuant to a policy followed by the telephone company which is enunciated in part by paragraph 17 of the tariff filed with this Commission by The Chesapeake and Potomac Telephone Company on March 18, 1949, to become effective April 18, 1949.

(5) That the threatened action of The Chesapeake and Potomac Telephone Company complained of herein is arbitrary and capricious, constitutes a denial of petitioners' rights without due process of law, and is contrary to the public interest.

Company Policy

Witness for the Company testified substantially as follows on the Company's policy respecting the furnishing of service used by customers for unlawful purposes.

The Company will not knowingly furnish telephone service to be used for unlawful purposes. Pursuant to this policy, the Company has established practices designed to prevent the use of its service for gambling, particularly bookmaking. These practices require that care be exercised by its business office to avoid the acceptance of applications for telephone service where it appears that the applicant intends to use such service for bookmaking purposes. Its installation forces are instructed to withhold installation of telephones where it appears that the services or facilities are intended for such unlawful use, and to report such cases to the general commercial manager for further attention.

When, in the course of their regular duties, employees of the Company obtain information which would indicate that the telephone service is being used for bookmaking or for aiding and abetting bookmaking by disseminating racing information for gambling purposes, such information is reviewed by the general commercial manager, and if it is found that there are grounds sufficient for belief that the service is being used for such purposes, such as denial of access to the premises, unauthorized attachments to the telephone equipment, the customer will be notified of the Company's intention to discontinue the service, and the service will be discontinued.

It is also the Company's practice, when it receives notice from the District Attorney that he has competent evidence that a designated service is

used for bookmaking purposes, or for aiding and abetting bookmaking by disseminating racing information for gambling purposes, to notify the customer that the service will be discontinued.

The Company will not reëstablish service which has been disconnected because of unlawful use unless and until it has reasonable assurance that the service will not be used for such unlawful purposes.

The foregoing practices have been reduced to written form and a copy thereof was introduced as evidence in this proceeding. They are not tariffs and consequently have not been published or filed with either this Commission or with the Federal Communications Commission.

The Company witness further testified that since 1934 it has been the practice of the Company to discontinue telephone service on notice from the District Attorney that he has competent evidence that certain telephones are used for such purposes as bookmaking or aiding and abetting bookmaking. Notice is given the customer in such cases of not less than three days, excluding Saturdays, Sundays, and holidays.

The testimony of the Company witness is to the effect that customers' service would not be discontinued on the basis of charges of irresponsible people, such as cranks, or known enemies of the subscriber, or on the basis of anonymous letters, as such information would not be regarded as evidence.

According to the record, the filing with this Commission of the tariff regulation which is involved in this proceeding came about as follows:

Under date of January 6, 1949, the Federal Communications Commission, in a letter addressed to the American Telephone and Telegraph Company, called attention to a recent decision of a Federal court in the state of California, upholding a tariff regulation of the Western Union Telegraph Company which was similar to the regulation involved in this hearing. A copy of the Western Union regulation was attached to the letter, and the Bell System companies were requested to file with the Federal Communications Commission appropriate tariff regulations reflecting their policies and practices concerning this matter. This letter was brought to the attention of the Company by the American Telephone and Telegraph Company.

In compliance with the request of the Federal Communications Commission, the Company filed a tariff regulation applicable to interstate message toll and interstate private line services, which is identical with the tariff regulation filed with this Commission applicable to the local or exchange service which it regulates. The Company witness explained that such tariff regulation was filed with this Commission, inasmuch as the Company's practices over the years were the same for all services, and, in the interest of uniformity of tariff regulations, the Company saw no reason why the tariff should not be put in its exchange tariffs at the same time it was put in the interstate message toll and private line tariffs.

The Company witness testified that no change is contemplated in the above-described practices.

Determination of Responsibility

The Company witness stated that,

in his opinion, when the District Attorney notified the Company in writing that he had competent evidence that certain telephone service was being used for unlawful purposes, it was not the responsibility of the Company to determine whether or not the District Attorney did, in fact, have such competent evidence.

When information comes to the Company from a channel other than from a law enforcement agency, the Company, according to its witness, makes a thorough investigation to determine whether it has sufficient grounds for discontinuing service or refusing to furnish service. This investigation embraces a study of the location where the service is to be used, the history and the business of the applicant for service, the type and quantity of service requested, and such other conditions as the Company deems important to its determination.

Arguments of Counsel for Petitioners

The petitioners offered no testimony, but relied upon argument of their counsel to support the allegations of their petition.

Counsel for petitioners argued that the purpose of the filing by the Company of the tariff here under consideration was to provide the Company with a defense in a civil suit for damages in the event the Company, or the District Attorney, or some other law enforcement agency should make a mistake with respect to the discontinuance of telephone service. Furthermore, counsel contended that the burden of proof should be upon the Company.

It was suggested by counsel for the petitioners that a procedure be established whereby subscribers who receive notice from the Company advising them that their telephone service would be discontinued might file a protest with this Commission and obtain a hearing at which the Company would be required to produce the evidence upon which it based its action. Through such a method, the subscriber, at no expense to himself, would be accorded a full and adequate hearing to determine whether he is or is not using his telephone service for an unlawful purpose.

The argument was also presented by counsel for the petitioners that the Company should not be the real party in interest; that the District Attorney or the police department, or the corporation counsel, or whoever the appropriate complaining official might be, is the one who ought to appear before this Commission and take over the burden of proving the illegality of the use of telephone service.

In discussing the possible reluctance of a law enforcement agency to appear before this Commission and disclose its evidence in advance of trial, counsel for the petitioners suggested that all that would be necessary to cover the situation adequately would be to continue the matter before this Commission until after the trial.

Arguments of Counsel for Company

Counsel for the Company argued that if a subscriber receives notice from the Company that his telephone was going to be disconnected on the ground that it was being used for unlawful purposes, he has the right to a hearing on appeal to this Commission, to the courts, or to somebody else. The Company, according to counsel, takes each case under consideration

and gives the subscriber a minimum of three clear days' notice.

Counsel submitted that it would be unreasonable for anyone to take the position that a law enforcement officer should have the right to write a letter and say that a particular telephone is being used for unlawful purposes and have it fixed so that that decision could never be questioned in a court or before the Commission, or anywhere else.

Counsel for the Company contended that it is in the public interest that law violations be suppressed and stated that that is the intent and purpose of the tariff provision in question. The Company takes the position that it must rely upon the information furnished by a law enforcement officer and that it should not be placed in the position of being a law enforcing agency to determine whether or not evidence in possession of the law enforcement officer is competent or adequate. Counsel argued that when the Company is advised by law enforcement officers that its facilities are being used in violation of law, a failure to heed such advice puts the Company in jeopardy of a criminal indictment.

Counsel cited judicial and regulatory Commission decisions and opinions supporting the validity of similar tariff provisions.

Conclusion

[1] The petition filed and the arguments made in opposition to the tariff provision which is the subject of this proceeding raise the issue of the reasonableness of and the necessity for such tariff provision in the public interest. If this tariff be found to be reasonable and necessary, the Commission has authority, upon its own motion or upon request, to determine its applicability in any specific instance. In such a proceeding, the questions to be determined would be whether or not the Company had probable cause to believe that its facilities were being used or were to be used in violation of law, and the propriety of the application of the tariff.

The applicability of the tariff provision to the petitioners is not before the Commission in this proceeding, because the petitioners did not offer any testimony; nor is there any showing that the practice of the Company, as expressed in the tariff provision, was applied to the petitioners in an arbitrary, capricious, or discriminatory manner.

The petition alleges that the action threatened by the Company pursuant to the policy expressed in the tariff provision in question is arbitrary and capricious, constitutes a denial of petitioners' rights without due process of law, and is contrary to the public interest.

Argument was made that the District Attorney, or the corporation counsel, or some other law enforcement agency, is the proper person to appear before the Commission and assume the burden of proving the illegality of the use of telephone service. In the alternative, it was suggested that a decision in a proceeding before this Commission (and action by the Company) be delayed until after the completion of the trial of the subscriber for violation of law.

[2–4] It is not the function, nor is it within the power of this Commission, to make judicial determinations. The guilt or innocence of the petitioners of violation of law is not a

question before this Commission. To delay acceptance and approval of the tariff provision in question until a court has determined the guilt or innocence of the petitioners would not be determinative of the question raised by the petition as to the reasonableness and the necessity for the provision.

[5] The Company may not refuse to furnish telephone service because of mere suspicion or belief that its facilities are being used or will be used for illegal purposes. According to the only testimony of record, it has been neither the practice nor policy of the Company under rules in effect since 1934 to disconnect service or to refuse to give service on such grounds. The tariff provision in question negatives any such intent in future practice. The tariff provides that if any law enforcement agency, acting within its jurisdiction, advises that service is being used or will be used in violation of law, or if the Company receives other evidence that such service is being or will be so used, service will be refused.

Under the petition and arguments made in support thereof, the Commission must decide whether it is arbitrary and capricious and therefore contrary to the public interest to approve a tariff which has for its purpose and effect the upholding of law and morals, and whether such approval would constitute denial of due process of law, and for that reason be contrary to the public interest.

Courts and regulatory bodies generally have agreed, where similar tariff provisions have been in question, that to force a public utility, under the guise of regulation, to furnish service and facilities for unlawful purposes would be contrary to public policy. Courts and regulatory bodies have held that laws requiring public service by public utilities were not intended to make such service mandatory where it would facilitate the violation of law. It is an ancient doctrine of the courts that they will not lend their aid to enforce a contract to do an act that is illegal or which is inconsistent with sound morals or public policy, or which tends to corrupt or contaminate by improper influences the integrity of our social and political institutions. Regulatory bodies should not have a contrary doctrine. Due process of law protects citizens in the right to engage in a lawful business, not an unlawful business. It does not prevent legislation or regulation prohibiting a business which is inherently vicious and harmful, or contrary to public morals.

Since the obvious and express purpose of the tariff provision in question is in aid of the enforcement of laws and the upholding of public morals, it cannot be said to be contrary to the public interest. Since it denies no due process to one engaged in a lawful business, it does not constitute a denial of due process of law. Courts generally have agreed that in the consideration of due process of law, due regard must be given to the principle that the state may regulate and restrict the freedom of the individual to act whenever such regulation or restraint is essential to the protection of the public safety, health, or morals.

The tariff provision in question provides that service may not be rendered where a law enforcement officer, acting within his jurisdiction, advises the

Company that its facilities are being used for unlawful purposes. It is a commonly accepted principle that officers are presumed to do their duty, and the Company should not be placed in the position of judging the competency of the duly constituted law enforcement officer. Consequently, it has probable cause to believe that its facilities are being used for unlawful purposes when so advised by the duly constituted officer acting within his jurisdiction. On the other hand, the tariff also provides that the Company may rely upon other competent evidence. While courts and regulatory bodies have held that law enforcement agencies may not deny the use of public utility facilities, they have held that the utility may advise with them and be guided by their advice. The question involved is not necessarily in each instance the guilt or innocence of the subscriber. The tariff provision is aimed against the use of facilities for unlawful purposes whether that use be by the subscriber or others. It is contrary to public policy and public morals to permit gambling and other violations of law. The Company should not be placed in a position of aligning itself against that public policy and against public morals. This Commission believes that it should not lend its aid to enforce a contract to do an act that is illegal or which is inconsistent with sound morals or public policy. It is of opinion that the tariff provision under attack is consistent with sound morals and public policy and should be approved in the public interest.

Any abuse of public authorities raises issues determinable in the courts in a direct attack. In view of such availability of relief from abuse, the Commission is of opinion that the Company will have probable cause to apply the tariff when it heeds the advice and request of a government law enforcement agency acting within its jurisdiction.

However, what the Commission has said does not relieve it or the Company of their responsibility to see that the tariff provision in question is fairly applied. As previously stated, the Commission has the authority to determine the applicability of the tariff in any specific instance.

Proceedings before this Commission have always been available to one who feels that a public utility has acted arbitrarily or capriciously, or that he has been discriminated against in an unlawful manner. So here, if a telephone subscriber feels himself aggrieved by application of the tariff, proceedings before this Commission are available to determine whether or not the Company had probable cause to believe that the facilities were being used for unlawful purposes before they were disconnected, or would be used for unlawful purposes before refusing to give service, and whether the tariff provision is fairly applied. The Company is under obligation as a public utility to furnish nondiscriminatory service for lawful purposes at fixed charges. It is not under obligation to furnish service for unlawful purposes. If the tariff provision in question permits nondiscriminatory telephone service for lawful use, but prohibits the use of telephone facilities for unlawful use, it cannot be said to be contrary to the public interest.

For the foregoing reasons, the petition will be denied. However, in view of what has been stated hereinabove,

the tariff provision will be modified in such a manner as to provide for notice by the Company of the remedies available to any subscriber or prospective subscriber who may be affected by the tariff provision in question. Therefore,

It is *ordered:*

Section 1. That the petition of Harry Katz and Bertha B. Katz that paragraph 17 of The Chesapeake and Potomac Telephone Company Tariff P.U.C.–D.C. No. 3, or any rule or practice of the Company consistent therewith be canceled, suspended, or disallowed be, and it is hereby, denied.

Section 2. That paragraph 17 of The Chesapeake and Potomac Telephone Company Tariff P.U.C.–D.C. No. 3, Fifth Revision of Sheet 3, be modified so as to provide that the Company shall give notice to each subscriber or prospective subscriber affected by the provisions of such tariff of his right to apply to the Public Utilities Commission of the District of Columbia for a determination of the applicability of the tariff provision.

Section 3. That this order shall take effect immediately.

KENTUCKY PUBLIC SERVICE COMMISSION

Re Taylor-Green Gas Company

Case No. 1839
May 26, 1949

APPLICATION *for authority to increase gas rates; increased rates authorized.*

Valuation, § 313 — Cash working capital — Natural gas company.

1. Cash working capital of a natural gas company computed by taking one-eighth of out-of-pocket expenses, excluding gas purchased, for the test year was considered reasonable, p. 85.

Valuation, § 104 — Accrued depreciation — Book figure.

2. The book figure for depreciation reserve must stand in a determination of the rate base when a company fails to show that its estimated reserve requirement is more reliable than the original book figure; the book figure should not be changed except in instances where there is clear and convincing evidence that the existing reserve is incorrect and the proposed amount to be set up is a correct one, p. 86.

Valuation, § 407 — Burden of proof — Reproduction cost.

3. A public utility company cannot complain against a failure to consider cost of reproduction as a going concern when it fails to mention this factor, since it has the burden of making its case, p. 86.

Valuation, § 406 — Judicial notice — Reproduction cost.

4. Protestants against a rate increase cannot complain against a failure to consider the cost of reproduction as a going concern in determining a rate base when the Commission can almost take judicial knowledge of the fact that reproduction cost of the properties would be more than either invested capital or original cost, p. 86.

Valuation, § 36 — Invested capital — Inadequate record.

5. Only slight consideration should be given to invested capital in determining the rate base of a company, successor to several predecessors, where in recent years inadequate records have been maintained, p. 86.

Valuation, § 36 — Measures of value — Original cost.

6. Substantial weight was given to original cost in determining the rate base of a gas utility where other evidence of value was unacceptable, p. 86.

Return, § 101 — Natural gas utility.

7. A natural gas utility was permitted to realize a net return after expenses, including income taxes, amounting to $12,000 annually on a rate base of $200,000, although the company contended for a rate of return of 6½ per cent, p. 88.

By the COMMISSION:

General Statement

On the 11th day of March, 1949, Taylor-Green Gas Company filed its application seeking authority to increase its rates for gas service rendered in the two communities which it serves, viz., the city of Campbellsville, Taylor county, Kentucky, and the city of Greensburg, Green county, Kentucky. Applicant is a Delaware corporation. No corporation owns any of the capital stock. For the calendar year 1948, its gross operating revenues were $99,098.79. At the end of the year it had 1,730 customers; 1,265 in Campbellsville and 465 in Greensburg. Applicant's proposed rates, had they been in effect during the year 1948, would have increased its gross revenue in the amount of $15,405.70 or an increase of approximately 15½ per cent.

A hearing was held in this matter on the 13th day of April, 1949, at which time the company presented its case using the calendar year 1948 as the test period. The several protestants who appeared introduced evidence as to quality of service and also protested the proposed rate increase on other grounds.

Rate Base Determinations

Original Cost Rate Base

The company based its rate case on an average original cost rate base. The items making up this rate base were stated as follows: Utility plant in service, $254,802.16; materials and supplies, $5,463.34; cash requirement, $3,155.75; less reserve for depreciation and contributions, $48,034.85—making a rate base of $215,386.40.

[1] Inasmuch as the Commission staff has checked the original cost study of the company which was an estimate as of December 31, 1945, and which has been perpetuated by actual additions and retirements since that date in conformity with the methods prescribed by the Uniform System of Accounts for Natural Gas Companies, the gross original cost of the company's plant, as stated, appears to be substantially correct. The average of the materials and supplies account is in accordance with its verified balance sheets. The cash requirement was computed by taking ⅛ of the out-of-pocket expenses, excluding the gas purchased, for the test year. The amount of $3,155.75 appears to be reasonable.

The amount now carried on the com-

pany's books as reserve for depreciation has as its basis an estimate made by the company at July 31, 1947. As a result of that estimate the company found that its reserve requirement was $8,054.59 less than the amount carried on its books of account at that time.

[2] Subsequently, the company reduced its reserve for depreciation $8,054.59 making a concurrent credit to capital surplus. We are unable to say what amount is correct or incorrect. However, the company has failed to show that its estimated reserve requirement is more reliable than the original book figure. Therefore, the book figure must stand. The most commonly accepted method of accruing reserves for depreciation is the straight-line method. Under this method depreciation is accrued on the estimated service life of the property giving consideration to wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand, and requirements of public authorities. In making a reserve requirement study the same factors are considered. Obviously, then, the depreciation reserve under either method is based on theory. We do not believe that the book figure should be changed except in instances where there is clear and convincing evidence that the existing reserve is incorrect and further that the proposed amount to be set up is a correct one.

The original cost rate base taken from Company Exhibit #4 after adjustment by the Commission is as follows:

Item	Amount
Gross utility plant in service	$254,802.16
Less reserve for depreciation	56,089.44
Net utility plant in service	$198,712.72
Materials and supplies	5,463.34
Cash requirement	3,155.75
Original cost rate base	$207,331.81

Invested Capital Rate Base

The protestants contended that the rate base should be determined by the amount of capital which had been invested in the company. No computations were offered in this respect. However, the information from which such a computation can be made is contained in Company Exhibit #1.

Item	12-31-47	12-31-48	Average
Common stock	$75,000.00	$75,000.00	$75,000.00
Earned surplus	6,064.00	13,432.00	9,748.00
Notes payable	32,500.00	50,000.00	41,250.00
Invested Capital Rate Base	$113,564.00	$138,432.00	$125,998.00

Statutory Requirements

[3–6] KRS 278.290 provides that the Commission in fixing the value of any property shall give due consideration to the following factors:

(a) *History and development of the utility and its property.* We have considered the history and development of this utility and its property and find among other things that the estimated original cost of the properties is considerably in excess of invested capital. From the evidence in this case and in Case #1641 we believe that this may be attributed to the fact that the predecessor companies in constructing the gas plant which was dedicated to the public use failed to capitalize certain

labor costs and overheads. We further find that neither this company nor its predecessors earned in the overall a reasonable rate of return.

(b) *Original cost.* The original cost rate base, as previously mentioned, is $207,331.81.

(c) *Cost of reproduction as a going concern.* No evidence was presented as to this factor. Thus, the consideration to be given to it in this particular instance is nil. In this regard the company cannot complain because it had the burden of making its case and failed to mention this factor. On the other hand, the protestants representing the general public cannot complain for the Commission can almost take judicial knowledge of the fact that the reproduction cost of these properties would be more than either of the two rate bases heretofore mentioned.

(d) *Other elements of value recognized by the law of the land for rate-making purposes.* We believe that one of the principal elements of value recognized by the Supreme Court of the United States for rate-making purposes in addition to the elements enumerated in (a), (b), and (c) above is invested capital. The invested capital rate base is $125,998.

The statutes do not specifically refer to invested capital as a measurement of value although we realize that at times it is one of the important "other elements." However, in this particular instance, after considering the fact that the present company is the successor to several predecessors and that previous to 1945 inadequate records were maintained, we believe that only slight consideration should be given to this factor.

There is another important point to be weighed here. During the existence of the applicant company and its predecessors dating back to 1923, only one dividend was ever paid, yet the accumulated earned surplus at December 31, 1948, was only $13,431.83. We have considered this together with evidence to the effect that the predecessor companies erroneously charged labor and overhead expenses associated with plant construction to operating expense accounts rather than to plant accounts; it is logical to assume that money which rightfully could have been paid to stockholders, if proper accounting procedures had been followed, was instead used to build additional plant through expense. This is a serious matter from the stockholders' standpoint because these plant expenditures are not now reflected in plant—except in the original cost study.

Manifestly, the Commission in this case must, in the interests of equity, give substantial weight to the original cost rate base. We also feel that the interest of the customers of the company is not prejudiced because the plant has actually been devoted to public use. Our engineers checked the inventory of the property, our accountants verified the pricing of it at estimated original construction cost. Therefore, we find the rate base of this company for the test period 1948 to be $200,000.

We feel that it is appropriate to make a few comments relative to the use of original cost as one of the principal components of an equitable rate base. In the past few years this Commission has spent hundreds of thousands of dollars in making original cost determinations. Likewise, the

various utility companies have gone to considerable expense in this connection. Furthermore, the Federal Commissions have spent millions of dollars in this regard. Moreover, all the uniform systems of accounts prescribed for utility companies require that their plant accounts be set up and kept on an original cost basis. Once an original cost determination has been made as of any date, a company, by making additions and retirements in accordance with the provisions of the applicable uniform system of accounts, can perpetuate its plant accounts with a high degree of accuracy for all time to come. Whenever any question as to rate base is involved, the most readily obtainable and most reliable figures are available from the company's ledgers.

Operating Revenues, Expenses, and Income

The Company's Exhibit #5 states its total operating revenues at $99,098.79. There appears to be no question as to the accuracy of this amount. Operating expenses are stated at $93,123.64. This leaves a net operating income of $5,975.15 for the calendar year 1948. It appears that the accrual for Federal and state income taxes may be slightly overstated and that certain maintenance expenses may be abnormal. However, the general and administrative expense is unusually low and, in the absence of any definite evidence, we are inclined to accept the net figure as being substantially correct.

Rate of Return

[7] It has been seriously contended by the company that the proper rate of return is 6½ per cent. This is the rate of return which it used in preparing its exhibits as to necessary earnings. It is the opinion of the Commission that the rate herein allowed will enable the company to pay all fixed charges, operating expenses, set aside an adequate reserve for depreciation, and attract sufficient capital. It has been noted that the applicant has availed itself of low interest rates on its borrowed capital. Re Kentucky-Tennessee Light & P. Co. (Tri-City Utilities Company) (Ky 1942) 46 PUR NS 277; Re Chesapeake & P. Teleph. Co. (Md 1947) 70 PUR NS 97; Re Staten Island Edison Corp. (NY 1945) 60 PUR NS 385; Federal Power Commission v. Natural Gas Pipeline Co. (1942) 315 US 575, 86 L ed 1037, 42 PUR NS 129, 62 S Ct 736.

Deficiency in Earnings

Having determined the proper rate base to be $200,000 we feel that a fair rate of return under the facts of this case should permit the company to realize a net return, after all expenses including income taxes, of approximately $12,000 per year. Its Exhibit #4 in this case indicates that for the twelve months ended December 31, 1948, it earned $5,975.15. The deficiency is approximately $6,000. Giving effect to Federal and state income taxes on a corporation having a net taxable income of less than $25,000 it will be necessary to increase gross operating revenues in the approximate amount of $8,100 in order to permit the company to earn a reasonable return.

Conclusion

An order will be drawn consistent

with this opinion and a rate schedule will be adopted which will permit the company to increase its gross revenues in the approximate amount of $8,100.

MONTANA PUBLIC SERVICE COMMISSION

Re Anaconda Copper Mining Company

Docket No. 3715, Order No. 2081
June 30, 1949

APPLICATION *by water utility for authority to increase rates; approved.*

Expenses, § 144 — Water utility — Charges by municipality.

1. Charges for sewer construction and operation by a municipality supplying water to a water company, which charges are reflected in the cost of water to the utility, are proper operating expenses for rate-making purposes, p. 90.

Rates, § 143 — Increased cost — Water.

2. A water utility was allowed a 125 per cent increase in rates where such an increase was found necessary to permit payment of operating costs and where the resultant rates were fair, reasonable, and necessary, p. 91.

The above-entitled matter came on regularly to be heard in the city council chambers in the Civic Center, Great Falls, Montana, at the hour of 9 o'clock A.M., on the 30th day of June, 1949.

APPEARANCES: Jardine, Chase and Stephenson, Attorneys at Law, Great Falls, appearing for the applicant; none, for protestants; Edwin S. Booth, Secretary-Counsel, appearing for the Board.

By the COMMISSION: The Anaconda Copper Mining Company furnishes water, as a utility, to the town and residents of Black Eagle, Montana. This service is furnished through the Little Chicago Water Company, operating under jurisdiction of this Commission. An application to increase present rates by 125 per cent was filed and set for hearing. There was no protest to the application. The applicant offered oral and documentary evidence in support of its request for increase in rates.

Black Eagle is located near the applicant's smelter properties and was formerly occupied almost entirely by employees of the applicant. Now only about 130 of the 302 water patrons in town are employees of the applicant. Water is purchased by the company for its own use and for resale from the Municipal Water System of the city of Great Falls. The water furnished to Black Eagle is metered through a separate meter and expenses of the water utility are separated from other water charges of the applicant. With the exception of eighteen metered cus-

tomers, the service is furnished on a flat-rate basis.

The present rates for the company were approved in 1927 and are the same as the rates charged in the city of Great Falls at that time. There has been no increase granted the city of Great Falls for water service furnished by it. Prior to January 1, 1948, the applicant was billed at the rate of 9 cents per hundred cubic feet for all water used by it, either at its smelter or for the Little Chicago Water Company. This rate was the lowest step for industrial users, but did not take into account the higher rates for various steps ranging from 25 cents to 10 cents per hundred cubic feet for consumption under 250,000 cubic feet per month. On January 1, 1948, the city correctly started billing in accordance with the industrial rates approved by this Commission. This practice resulted in increased rates on all water under 250,000 cubic feet by from one cent to 16 cents per hundred cubic feet per month. This change in practice resulted in increases in the water charge of the applicant by about 8 per cent.

Reports filed by the utility for the years 1944 to 1948, inclusive, show an operating loss ranging from a low of $2,657.88 in 1945 to a high of $4,717.20 in 1947 and averaged $3,521.12 per year. Losses for the years 1944 to 1947, inclusive, would have been even higher had the rate for water been computed correctly in accordance with the industrial rate of the city of Great Falls, as approved by this Commission. The actual charge paid to the city of Freat Falls for water furnished Black Eagle in 1945, 1947, 1948, and the first five months of 1949 exceeds the gross revenue from sales. Had the rates chargeable to the company for 1944 and 1946 been correctly computed, the cost of water for these two years would have exceeded revenue. Other operating expenses and the balance of the water charge had to be paid from other sources.

[1] The cost of water since August 1, 1948, has likewise increased by reason of the charge made by the city of Great Falls for sewer service. Under authority of Chap 149, Laws of 1943, as amended, the city of Great Falls has engaged in constructing sewers and sold bonds for that purpose. The city is authorized by law to make a charge based on the water bill. This extra charge is not a charge for water, but for sewer, however, it is based on the water bill and billed at the same time. Section 10 of Ordinance No. 985, enacted by the city of Great Falls on June 18, 1948, provided in part:

"All statements issued for sewerage charges to parties or properties who or which are also customers of the city's water system, whether within or without the boundaries of the city, shall be made a part of the statements for water services and charges, but separately stated thereon. It is hereby found and declared a part of the service and benefits provided by said sewerage system is the prevention of pollution of the city's water supply, and the sewerage charges shall be and are hereby imposed upon all users of city water, whether or not connected with the sewerage system."

This extra charge is approximately 75 per cent of the water bill, but in the case of meter users is a fixed amount per hundred cubic feet ranging downward from 19 cents to 7 cents per hundred cubic feet. This charge is not a water charge, but it clearly increases

the cost of water to the applicant. The cost of water is a proper operating charge, regardless of whether it arises from a particular cost of water purchase, production, or some other cause.

The attorney general of Montana on July 22, 1948 (Vol. 22 Atty. Gen. Opinions No. 127), rendered his opinion to the effect that the charge for sewer construction and operation under the provisions of the above-mentioned act are not under the jurisdiction of the Public Service Commission. We are, therefore, required to accept the charges made by the city of Great Falls for sewer as a proper operating expense of applicant.

The applicant reconstructed its expenses to show the expense including sewer charge had it been applicable and likewise reconstructed its revenues to show the proposed increase. This exhibit shows the following results:

Year	Cost of water, including sewer charge and operating expense	Revenue adjusted to include proposed increase	Revised Profit or Loss
1944	$15,181.53	$15,019.83	*$161.70*
1945	14,734.41	15,405.73	671.32
1946	15,315.81	15,933.53	617.72
1947	17,597.07	16,447.21	*1,149.86*
1948	19,073.91	17,705.34	*1,368.57*
5 months—1949 (January to May, inclusive)	8,340.51	7,389.59	*950.92*

Italicized figures represent loss.

Had the water charges for 1945 and 1946 been correctly computed, it would show a loss in each of these years as well.

[2] The evidence conclusively shows the proposed rates will not be more than sufficient to meet actual cost of water and operating expenses. The proposed increase, while high in percentage, will not result in unreasonable or unjust rates. The company, if it is to continue in business as a utility, should receive revenues sufficient to pay operating costs. The proposed rates will, at least, greatly reduce operations at a loss.

The applicant agreed that in submitting new flat rate schedules the rate for the various services, increased by 125 per cent, would be adjusted to the nearest zero or five with any rate ending in 2.5 or 7.5 being carried to the next higher zero or five. They likewise agreed to adjust meter rates to the nearest cent with any rate of one-half cent carried to the next higher cent. Such a method will result in preserving the present ratios between rates and will result in fair and reasonable rates.

From the evidence and for the reasons set forth the Board makes the following:

Findings of Fact

1. That the Little Chicago Water Company is the operating agency of the Anaconda Copper Mining Company in furnishing utility water service to Black Eagle, Montana.

2. That the present rates for water service are insufficient to meet operating costs including the cost of purchasing water from the city of Great Falls. That the increase of rates by 125 per cent will be necessary in order to permit payment of operating cost and the resultant rates are fair, reasonable, and necessary.

3. That increased meter rates should be adjusted to the nearest cent and flat rates to the nearest zero or five, with fractions of one-half carried to the next higher figure.

4. That the application is supported by substantial evidence.

The Board concludes as a matter of law that the application should be granted.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Conyngham Valley Lions Club

v.

Conyngham Water Company

Complaint Docket No. 14687
July 26, 1949

HEARING *upon motion of water company to dismiss complaint against proposed rate increase; complaint dismissed.*

Rates, § 641 — Complaint against rate increase — Proper parties.

A social organization which is not a customer of a water company is not such an interested party as is entitled to complain before the Commission against a proposed water rate increase, although its members are customers and it filed the complaint in behalf of its members, p. 93.

By the COMMISSION: This matter comes before us upon the motion of Conyngham Water Company to dismiss the above-captioned complaint. Answer has not been filed to this motion.

The subject matter of the complaint, filed June 20, 1949, is as follows:

"a. That its members are consumers of water furnished by the Conyngham Water Company and it enters this position in behalf of its members and all other patrons and consumers of water furnished by the Conyngham Water Company.

"b. That the respondent above named is a Public Utility Company engaged in the supply of water to the public at Conyngham, Pa., and adjacent territory thereto.

"c. That recently, to wit, upon the 28th day of April, 1949, the Conyngham Water Company filed with Public Utility Commission of Pennsylvania, a new tariff and schedule of rates, Water-Pa. P.U.C. No. 4, to become effective July 1, 1949, superseding and cancelling all previous schedules, which said new tariff, Water-Pa. P.U.C. No. 4, contains revised and increased rates for all flat rate and metered service.

"That the rates in said new tariff, Water-Pa. P.U.C. No. 4, are unjust, unwarranted, and illegal; and the increases therein are unjust, unreason-

able, undue, exhorbitant, unlawful, and discriminatory."

Respondent in its motion to dismiss avers, inter alia, as follows:

1. That the complainant has no power or authority under the law and therefore no standing before the Pennsylvania Public Utility Commission to proceed further with this complaint.

2. That it is an ultra vires act for this complainant to file this complaint.

3. That complainant is not a property owner or not a consumer of respondent's water service.

4. That the charter or certificate of incorporation of complainant does not authorize a complaint of this nature.

5. That the complaint is based upon conclusions of law and no facts are set forth justifying the Pennsylvania Public Utility Commission to entertain this complaint.

Section 1001 of the Public Utility Law authorizes complaints against public utilities by those having an interest in the subject matter, and provides that the Commission, by regulation, may prescribe the form of said complaints.

In the instant case it is apparent that complainant itself is not a consumer of respondent water company and if it is to be classified as an interested party within the meaning of § 1001 this must be predicated upon the allegation that various of its members are consumers of respondent and complainant is undertaking to act in their behalf.

In the case of Hegarty v. Luzerne County Gas & E. Corp. (1941) 23 Pa PUC 118, the Commission dismissed a complaint filed by a similar body, and at p. 120 said:

"The fact that some of the league's members have the status of interested parties does not in itself impart such status to the league. The league is a nonprofit corporation which has an existence separate and apart from that of its members, and we are aware of no authority which holds that a corporation gains any enforceable interest in the private business affairs of the individuals who become its members or stockholders. We are of opinion that any injury to a consumer of Luzerne County Gas and Electric Company arising from the payment of alleged excessive rates and any claim for reparation therefor are causes of action which belong to such consumers and not to the league, and that the league is not enabled to litigate such causes of action merely because its members may do so.

"Nor is the league a proper party to bring a representative action. Such actions may be brought only by one of a class for the benefit of others similarly situated, and not by a stranger to the class. Since it does not appear either that the league is a consumer of respondent or has been granted enforcible rights by any consumer, it is not a proper party to represent respondent's consumers in a class suit."

For the foregoing reasons we do not believe that complainant is an interested party within the meaning of § 1001 of the Public Utility Law and that accordingly respondent's motion must be granted and the complaint dismissed; therefore,

It is *ordered:* That the motion of Conyngham Water Company to dismiss the complaint of Conyngham Valley Lions Club be and is hereby granted.

Re Casco Telephone Company

2-U-3027
August 23, 1949

APPLICATION *for authority to increase telephone rates; authority granted.*

Rates, § 558 — Telephone — Handset instruments.

1. An additional charge for the use of handset telephones is not justified when desk and wall sets are no longer manufactured, p. 94.

Rates, § 311 — Telephone — Charge for inside moves.

2. Telephone rates for an inside move should not be as high as the charge for an outside move, p. 95.

Rates, § 311 — Telephone — Charge for change in type of instrument.

3. A proposed rate of $2.50 for a change in type of telephone instrument was deemed reasonable, p. 95.

By the COMMISSION: Casco Telephone Company, Casco, Kewaunee county, on March 25, 1949, filed with the Commission an application for authority to increase miscellaneous charges for telephone service.

APPEARANCE: Tony M. Gotstein, President, Casco, for the Casco Telephone Company.

[1] The Casco Telephone Company serves the village of Casco and adjacent rural areas. On December 31, 1948, the company had 38 urban business, 79 urban residence, 322 rural, or a total of 439 subscribers. The applicant requests authority to revise present mileage charges to reduce the unit of distance from ½ mile to ¼ mile; to increase the rate for extension telephones from 75 cents for business and 50 cents for residence to one dollar for business and 75 cents for residence per month; to increase the rate for extension bells and loud ringing gongs from 15 cents and 25 cents to 40 cents and 75 cents per month; to make an extra charge of 15 cents per month for handsets; to increase the charge for an inside move from one dollar to $1.50 and a charge for change in type of instrument from $1.50 to $2.50. It is estimated that the proposed rates would increase annual revenues approximately $315 per year. When handsets first were introduced, the Commission approved an additional charge for their use because the first cost of the handset was greater than for the wall or desk set and because repair parts and maintenance also were more expensive. The desk and wall sets no longer are manufactured, and the handset has become the standard telephone instrument. The Commission does not believe that an extra charge is now justified.

The proposed revisions in mileage charges and in rates for extension telephones are not out of line with the

rates of comparable telephone utilities, but the proposed rates for extension bells and gongs appear somewhat excessive. The Commission will authorize a rate of 25 cents for extension bells and 40 cents for loud ringing gongs.

[2] The Commission does not believe that the charge for an inside move should be as high as the charge for an outside move. Since the applicant now has a charge of $1.50 for an outside move, the Commission will authorize a charge of only $1.25 for an inside move.

[3] The proposed rate of $2.50 for a change in type of instrument appears reasonable and will be approved.

The rates and charges authorized herein will reduce the increase in revenues under the proposed rates from approximately $315 to $160 per year. It is estimated that net operating revenues in 1949 will be approximately $460. The increase in revenues resulting from the revisions and the miscellaneous charges of $160 would bring the operating income to $620 exclusive of additional taxes. This represents a 3.9 per cent return after taxes on the net book value of property and plant in service as of December 31, 1948 of $15,836.

The Commission finds:

1. That the applicant's rates and charges for certain miscellaneous services are unreasonable in that they are inadequate.

2. That the net book value of $15,836 constitutes the reasonable value of the applicant's property used and useful for the rendition of telephone utility service and that such value constitutes a reasonable and proper base for rate-making purposes herein.

3. That the rates and charges authorized herein will yield a return of approximately 3.9 per cent on the above rate base which return is a reasonable and lawful return and which rates are reasonable and lawful.

4. That the proposed rates and charges which are not authorized herein are unreasonable because they are discriminatory and excessive.

The Commission concludes:

That an appropriate order should be issued in accordance with the foregoing findings of fact granting the application in part.

MICHIGAN PUBLIC SERVICE COMMISSION

Re Menominee & Marinette Light & Traction Company

D-3050-49.4
June 24, 1949

APPLICATION *for authority to revise electric extension rule; granted.*

Service, § 198 — Electric extension — Customer cost.

An electric company, upon showing that rural construction costs had in-

creased from $1,080 per mile at the time of Commission approval of extension rules to $1,190 per mile, and that corresponding increases had occurred in urban construction costs, was permitted to reduce its allowance of 2,640 feet of free extension in the case of rural customers to 2,000 feet, and its present allowance of 660 feet of free extension in the case of urban customers to 500 feet, and it was also permitted to increase its charges for that portion of the length of extension in excess of the free allowance from 20 cents per foot in rural territory to 22 cents per foot, and from 30 cents per foot in urban territory to 33 cents per foot.

By the COMMISSION:

Electric Extension Rules

The Menominee and Marinettee Light and Traction Company, a Michigan and a Wisconsin corporation, filed application on May 4, 1949, subsequently amended on May 12, 1949, requesting authority to revise its electric extension rules.

Applicant proposes to reduce its present allowance of 2,640 feet of free extension in the case of rural customers to 2,000 feet, and its present allowance of 660 feet of free extension in the case of urban customers to 500 feet.

Applicant further proposes to increase its charges for that portion of the length of extension in excess of the free allowance from the present charge of 20 cents per foot in rural territory to 22 cents per foot, and from the present charge of 30 cents per foot in urban territory to 33 cents per foot.

It is alleged by applicant that since its present extension rules were authorized under this Commission's order dated April 21, 1948, rural construction costs have increased from $1,080 per mile, the cost at such date, to the present cost of $1,190 per mile. It is further alleged that urban construction costs have increased correspondingly.

Applicant states that it has delayed adjusting its rules to reflect these increased costs, but now feels that such modification is necessary, particularly because so much of its construction is now in territory where seasonal resort service and rather poor farming conditions prevail. Accordingly, it proposes to reduce its free extension allowance in order to require these customers to more nearly pay their way.

Applicant further states that none of the proposed changes will affect any existing customers, and all customers connected under rules effective prior to the proposed revised rules, will be eligible for any refunds or adjustments based on the policy in effect when service was extended to them.

The Commission having carefully considered the matter before it and being advised in the premises *finds* that the proposed revision in applicant's electric extension rules should be approved.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

PG&E Expanding Natural Gas Facilities

NEARLY $120,000,000 is being spent by Pacific Gas and Electric Company for expansion of its natural gas transmission and distribution facilities to meet the demand created by population growth of Northern and Central California. Outlays from 1945 to 1948 inclusive approximated $43,000,000 and projects now under way or authorized so far this year will cost about $75,000,000.

"Our gas construction program is the largest in the Company's history" said W. G. B. Euler, vice president and general manager. "It was made necessary in part by deferment of construction during the war and to a greater extent by the extraordinary increase of demand for natural gas in the territory we serve. We now have nearly one million gas customers, or approximately 48 per cent more than were served in 1940. That growth continues is evident from the fact that more than 55,000 customers were added to the system in the past 12 months."

The program includes many hundreds of miles of new transmission and distribution pipelines, storage holders, compressor stations and other facilities.

Central Hudson G&E Building New Generating Station

GROUNDBREAKING ceremonies were held recently for the Central Hudson Gas & Electric Corporation's new steam generating plant at Danskammer Point on the west bank of the Hudson River six miles north of Newburgh. The station will cost between $12,000,000 and $13,000,000 and will have a generating capacity of 60,000 kilowatts of electricity. Its design will permit construction of additional plant units as they are needed to meet future power requirements.

The plant's equipment, the most efficient yet developed, will make a kilowatt hour of electricity for 8/10ths of a pound of coal consumed. The plant is expected to be placed in operation on January 1, 1952.

New Method for Storage Of Natural Gas

INITIAL operation began recently in Warren, Pennsylvania, of a new type of storage facility for natural gas which uses a solid fireproof adsorbent material within an above ground container.

According to C. V. Spangler of the Pittsburgh Office of J. F. Pritchard & Company this is the first pilot plant to be created for the testing of an entirely new method for the storing of natural gas.

Mr. Spangler reports that in this pilot plant the methane stored on the granular adsorbent "fullers earth" will not flow away as a liquid nor escape readily as a gas. He believes the fuel stored in this manner will be difficult to ignite.

Gas storage, or some method of handling the demand for peak load gas in cold weather is becoming a critical problem for many gas companies, particularly those just beginning to buy and distribute natural gas. Since underground storage is frequently not available to them gas storage plants or special plants to make peak load gas may be needed.

Storage on adsorbents is being developed as a safe method to meet this need. Storage plants provide a place to put off-peak gas as contrasted to peak load plants that make gas from other materials. Since the stored gas is the same gas as that distributed, there are no interchangeability problems involved. Plants using adsorbents for storage would present no more than ordinary gas plant operating hazards.

U. S. Rubber Offers Plastic Cable Splice Housing

A PLASTIC cable splice housing which drastically reduces the time needed to splice power and signal cables and gives a durable water-tight electrical seal, has been developed by United States Rubber Company.

The new housing eliminates lengthy outside wrapping operations which cable splicers now use to join lengths of electrical cable, thereby cutting splicing time from a matter of hours to a matter of minutes, the company said.

It is recommended for both aerial and underground installations and can be used with either rubber or neoprene cable. Experiments are now underway to determine its serviceability on lead jacketed cables.

I-H Announces More Powerful Models of Two Diesel Crawlers

NEW, more powerful, "A" models of the International TD-18 and TD-14 Diesel Crawler tractors, are announced by International Harvester Company. Both the TD-18A and TD-14A, now in production, have greater work capacities than previous models, and incorporate a number of new features designed for increased operator comfort and longer trouble-free service life.

The heavy-duty TD-18A, second largest in

(*Continued on page 26*)

International's line of five diesel crawlers, has 87 drawbar horsepower, compared with 80.5 in the previous model. Net engine horsepower at the flywheel, which was 97 in the last model, is now increased to 107. Belt horsepower, previously 91.5, has been raised to 101.

In the TD-14A, third largest of the crawler line, horsepower has been increased to 76 at the engine flywheel; 60.5 drawbar, and 72 belt. With the added power, this tractor has higher maximum drawbar pull of 16,600 pounds in first gear. The TD-14A has the same speeds as the TD-18A.

Specification sheets and catalogs on the TD-14A and TD-18A are available on request. Write the consumer relations department, International Harvester Company, 180 N. Michigan avenue, Chicago 1, Illinois.

Surface Combustion Wins Direct Mail Award

ANNOUNCEMENT has been made of the awarding by the Direct Mail Advertising Association of top honors to the Janitrol Division of Surface Combustion Corporation for its entry in the Association's Annual Competition.

The awarding of first place in the heating and ventilating equipment field to Surface Combustion was based on a direct mail campaign to create more widespread recognition and acceptance of Janitrol equipment at the local level where its own sales offices and distributors are located.

Service Station Lighting Folders Released by EEI

Two direct mail folders, for use by electric companies in promoting Planned Lighting to service stations, have been prepared by the Edison Electric Institute, as part of the industry-wide Planned Lighting Program.

Stressing the importance of profitable nighttime business to successful service station operation, the folders show how modern lighting will attract customers, maintain working efficiency, advertise the products sold, and deliver extra sales.

The two folders, entitled "How's The Night Life In Your Business?" and "How To Bring Customers In To Buy," are available from Edison Electric Institute, 420 Lexington avenue, New York 17, New York, at $9 per 100 sets of two.

Quick-Reference Aid to Planned Lighting Offered by Benjamin

PUBLICATION of a new, 40-page "Quick Reference" catalog bulletin, describing and illustrating the most widely used Benjamin Lighting Units, is announced by Benjamin Electric Mfg. Company, Des Plaines, Illinois. According to the company, the new bulletin answers a definite need for concise, up-to-date information on the wide range of Benjamin Units used for modern Planned Lighting Systems. Entitled "Benjamin Lighting Equipment for Industry and Commerce," the bulletin is available without charge to architects, electrical contractors, lighting specialists, and industrial and commercial executives concerned with the specification, selection and installation of lighting equipment.

Included in this up-to-date reference bulletin are specifications, list prices and lighting data on the new "Sky-Glo" Luminous Louvered System, for the lighting plan that calls for inconspicuous, yet high-level lighting of offices and commercial locations. The bulletin also contains detailed information on lighting equipment for many types of Planned Lighting Installations for factories, including descriptions and specifications of lighting units for outdoor lighting of yards, platforms, entrances and sport areas; explosion-proof and dust-tight units for hazardous-location lighting; and fluorescent units for the proper lighting of all types of industrial work areas.

Penelec to Double Capacity of Front Street Station

PENNSYLVANIA ELECTRIC COMPANY will build an addition to its Front Street station, Erie, Pa., at a cost of $12,500,000 according to an announcement by President D. W. Jardine. Two turbo-generators and two high pressure boilers to be installed will more than double present capacity of the station from 62,000 to 126,000 kilowatts.

Work on the building will start in March 1950 and be completed in about two years. The turbo-generators are scheduled for delivery in the summer of 1951 and will be placed in service late that year.

The General Electric Company will build the two turbo-generators. The larger, rated at 40,000 kw, will produce more than 45,000 kilowatts per hour. The smaller, known as a topper unit and rated at 15,000 kw, will be used in conjunction with the station's present low pressure turbines and will be capable of more than 18,000 kilowatts per hour.

New Ward Leonard Catalog Lists Stock Relays

COLORFUL new catalog D-20A has just been issued by Ward Leonard Electric Company, Mount Vernon, New York, listing stock-type industrial and general-purpose relays which are carried in stock for immediate shipment.

A copy of the catalog may be obtained by writing to Ward Leonard Electric Company, electronic distributor division, 53 W. Jackson boulevard, Chicago 4, Illinois.

Southern Coal Company Moves General Office to Chicago

SOUTHERN COAL COMPANY, INC. moved its general office to Chicago, July 1st, according to an announcement by R. J. Billings, chairman of the Board. Chicago address of the company's new general office is 333 N. Michigan avenue where the entire seventh floor has been

(*Continued on page 28*)

remodeled to accommodate the move. Concurrent with the establishment of new headquarters at Chicago, Southern's Chicago branch office, formerly located at 307 N. Michigan avenue, will occupy a portion of the general office seventh floor space.

The Southern organization, one of the largest wholesale distributors of coal in the Nation and America's largest distributor of Warm Morning Heaters, has been headquartered at Memphis, Tennessee, for the past fifty-three years. When announcing the general office move to Chicago, Mr. Billings stated that the company will maintain a large staff at Memphis, all of whom are specialists at serving the coal and stoves needs of the Southern territory.

Currently handling as many as twenty different coals from the Western Kentucky, Illinois, Alabama, Eastern Kentucky, and West Virginia fields, Southern has ten branch offices. The widespread organization maintains a staff of fuel engineers plus a large group of experienced sales representatives who offer a complete service to industrial and retail coal merchant accounts. As the largest distributor of Warm Morning Heaters, Southern's stove representatives are specialists in the wholesale distribution of space heaters.

Officials of the Southern general office organization who will headquarter at Chicago include: P. B. C. Smith, president; S. L. Jewell, vice president and director of sales; W. G. Blewett, vice president; J. L. Tucker, treasurer; R. E. Hagerty, secretary; Vaughn Mansfield, chief engineer; C. C. Davis, manager stove division; and David S. Ogle, advertising manager.

A-C Bulletin

"PREVENTION and Reduction of Cavitation and Pitting in Hydraulic Turbines" is the subject of a new 12-page bulletin released by Allis-Chalmers.

Written by W. J. Rheingans, assistant manager of the company's hydraulic department, the bulletin explains and discusses cavitation in water as it applies to hydraulic turbines.

Applicable basic formulas are elaborated upon and the relative merits of avoiding cavitation or minimizing its effects are presented.

Several examples of pitting, the destructive effect of cavitation, are shown and pitting is differentiated from erosion and corrosion. The mechanisms of cavitation and pitting are explained in light of recent evidence.

Copies of the bulletin, 02B7226, are available upon request from Allis-Chalmers Mfg. Company, Milwaukee, Wisconsin.

Book of Pipe Protection

THE Fifth Edition of the *Book of Pipe Protection* describing the latest advances in pipe protection methods has been published by Hill, Hubbell & Company (division of General Paint Corporation). In twenty-two colorful and well-illustrated pages the book gives compete information on coating and wrapping applications, on Roto-Grit-Blast cleaning (pioneered by Hill, Hubbell), pre-heating, inspection methods, delivery scheduling, load unit shipping and field handling.

Edition One was published over twenty-five years ago. The Fifth Edition has been designed as a buying aid for engineers, technicians, and purchasing executives interested in increasing efficiency of their pipe protection.

Bulletin Gives Case Histories Of Coal Handling and Storage

GIFFORD-WOOD COMPANY, Hudson, New York, announces publication of a new bulletin describing 14 case histories of coal handling and storage systems.

These installations were all based upon the use of any one of Gifford-Wood's four basic types of storage and handling systems which feature simplified design, engineering, erection, and low initial and ultimate cost. These basic types are an outgrowth of 135 years of experience in applying hundreds of engineered designs for coal storage and handling equipment. The bulletin explains how they may be economically adapted to suit varying conditions of space, capacity, climate, and allowable initial cost. It also shows how these basic designs were specifically selected for various types and capacity of storage and how preparation and handling systems were designed around them.

A copy may be had upon request by writing Gifford-Wood Co., for Bulletin No. 300.

New Literature On Selection of Large A-C Generators

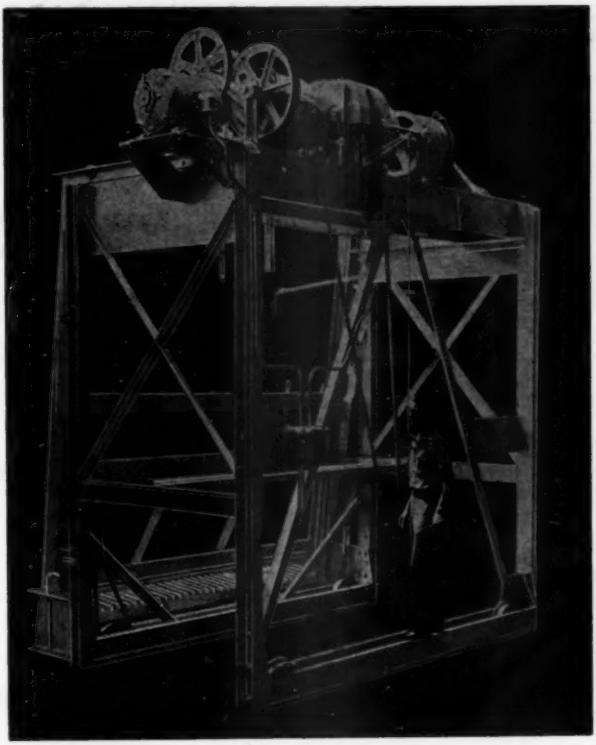
"YOUR Guide to Profitable Installations of Modern Generators"—a new eight-page two-color bulletin, 2200-PRD-196, tells in non-technical language the points to look for when ordering generators. Exclusive construction features and what these mean in terms of continuous, economical operation are pointed out and illustrated. Many recent installations of large slow-speed engine-type generators are shown. Copies may be obtained from Electric Machinery Mfg. Company, Minneapolis 13, Minnesota.

Portable Pipe Threader Handles Up to Six Inch Pipe

OF special interest to construction and maintenance men in public utilities and public works is Porta-Drive, a new portable pipe threader. Light in weight (only 14 pounds) and of "tool kit" size, Porta-Drive is claimed to furnish material savings in time, energy, and dollars consumed by old methods of pipe threading. One man operating Porta-Drive can thread up to six-inch pipe on the job. Porta-Drive can be used to thread pipe in any position—horizontal, vertical, or on an angle.

Complete descriptive information may be had without obligation by writing the manufacturer: Muncie Gear Works, Inc., Muncie, Indiana.

NEWPORT NEWS MECHANICAL RACK RAKE



***WATER** users troubled with trash are invited to write for new descriptive rack rake catalog.*

THE Newport News Mechanical Rack Rake is a power-operated rake for cleaning trash racks at water intakes for hydroelectric plants, steam plants, pumping stations, canals and similar installations. It cleans the rack bars of trash and reduces a former major hand operation to one of minor periodic activity. With Newport News Mechanical Rack Rake installations, one man per shift can, under ordinary conditions, keep the racks clean for a dozen bays.

NEWPORT NEWS SHIPBUILDING AND DRY DOCK COMPANY

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PROFESSIONAL DIRECTORY

• This Directory is reserved for engineers, accountants, rate experts, consultants, and others equipped to serve utilities in all matters relating to rate questions, appraisals, valuations, special reports, investigations, financing, design, and construction. » »

PROFESSIONAL DIRECTORY *(continued)*

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(Professional Directory Continued on Next Page)

PROFESSIONAL DIRECTORY (continued)

PROFESSIONAL DIRECTORY (concluded)

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*Fortnightly advertisers not in this issue.

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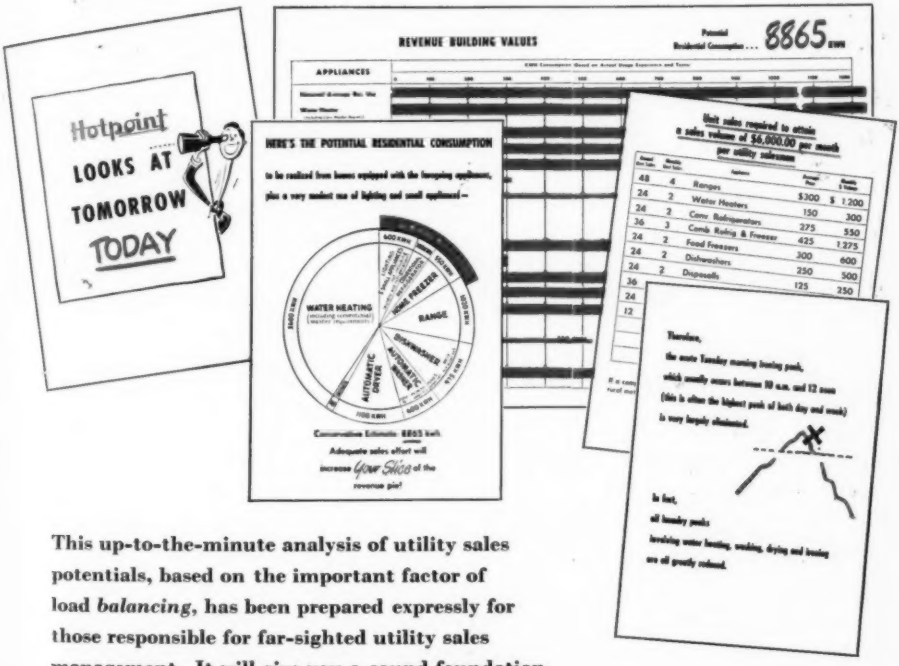

This up-to-the-minute analysis of utility sales potentials, based on the important factor of load *balancing*, has been prepared expressly for those responsible for far-sighted utility sales management. It will give you a sound foundation for a constructive sales program for 1950 . . . a program that will also please the dealers in your territory and stimulate their cooperation.

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